GENERAL AND REVENUE SECRETARIAT.

1905.

(III Courts)

File No. 161 of 04-05

Serial Nos. 1

Papers Filed.

Month January 1905

SUBJECT.

Memorial of Sanna Eerra and others; accused in Shimoga Sessions case No 89 of 03-04 & Criminal Appe. No 1149-03-04 on the file of the Chief Court.

PREVIOUS REFERENCES.

Same file B. Nos 8 Sup 42+43
file 70 B Aug 172 Nos
+ J J 151 of 03-04

LATER REFERENCES.

G. R. S. 11] 1904.

GENERAL AND REVENUE SECRETARIAT.

(Courts.)

NOTES.

File No. 14.

FILE HEADING.

Memorial of Sanna Sura & 2 Ors., accused in Shimoga Sessions Case No. 8 of 03-04 & Criminal Appeal No 145 of 03-04 on the file of the Chief Court.

From The Chief Secretary to the Maharaja.

No. 1455 Dated 14/12/04 Received 16/12/04

Diary No. 9 1249	Enclos. 2	Spare Copies. -	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the above memorial for submission of papers thro' the Post Channel.

NOTES AND ORDERS.

1 The previous history of the case against the accused is contained in the office Notes ahead put up. Subd with papers.

2 On a petition from certain

NOTES — First sheet.

Serial No.

inhabitants of Chawati and other village, the case against the prisoners has been taken into consideration, & His Highness the Maharaja declines to interfere.

3 No fresh facts of importance are mentioned in the present memorial from the prisoners. They ask that at least one of them, viz. the 3d Accd Adair, may be released, as he did not take any active part in the struggle. On this point the Chief Court, in their appellate judgment remark as follows:- "Though the accused Adair used no weapon, he was present and abetting the other accused [as by pulling the victim of the murder by the arm during the struggle], and we think he is equally guilty with them."

Seen 21.12.04

4 The papers are submitted to the Dewan Sahib. May they be circulated among the Councillors?

22.12.1904

3629/23.12.04

MGCPB—20,000—1-11-04.

Submitted to His Highness.

5 as called for in P. S. No 1455-5 14.12.24

Memorandum was once already
before His Highness who de-
-clined interference.

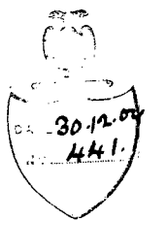
A

24.XII.09

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

6 Memorial of Sanna Eera and 2 others, accused in Criminal appeal case No.149 of 1903-04 on the file of the Chief Court praying for their release from the Jail.



Order.

~~KRW~~

28/12/04

29.XII.04

File, no order case.

5

J. 1249

Courts.

III Secy 16/12

No 1455 Encl

Refer to 6723

OFFICE OF THE PRIVATE SECRETARY TO
HIS HIGHNESS THE MAHARAJA OF MYSORE.

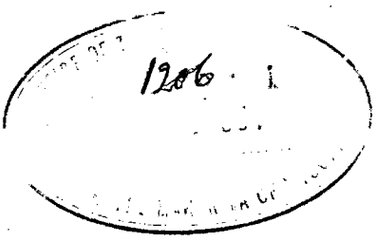
Mysore, 14th December 1904

Petition as shown below, to His Highness the Maharaja, is transferred to the Secretary to the Government of His Highness for the Maharaja of Mysore in the General and Revenue Departments (Br.III) Bangalore, for submission of papers thro' the proper channel.

No. 1206 of 04-05.

By Order,

I. C. S.
Private Secretary
to H. H. The Maharaja of Mysore.



To

His Highness the Maharaja

Krishna Rajendra Wodayar Bhadoor

Maharaja of Mysore.

The humble petition of

1. Sama Hara

2. Chenna

3. Adavi

Accused in Shemoga Sessions Case

No. 8 of 1903-1904.

Most respectfully showeth

That your Highness' humble petitioners were accused of the murder of one Thimmanna and tried before the Sessions Judge of Shemoga and acquitted by him, and that the Assessors also had expressed the opinion that the accused were not guilty.

2. That in appeal No. 149 of 03-04 the Honorable the Chief Court reversed the judgment and covicted the accused of murder and sentenced them to transportaion for life.

3. That the petitioners most respectfully and humbly submit that there is a miscarriage of justice in this case.

4. That the following are some of the reasons which show that the findings of the Honorable the Chief Court

are in error:-

(a) That the learned Sessions Judge led himself into an error in remarking in paragraph 34 of his judgment that his individual opinion was that all or any of the accused caused the death of Thimma and the Honorable Chief Court seems to have been greatly influenced by this remark.

Page 59, printed records.

(b) That the whole case hinges upon the evidence of Hole Basavaya, 6th. witness for prosecution a lad of 16. whose testimony the learned Sessions Judge and the assessors were unable to believe. That this boy's parents live in a different village and there is no reason adduced for this boy stopping at the village where the murder was committed and there are numerous circumstances which cast a great deal of doubt as to truth of this boy's deposition, and the Honorable Chief Court has turned all those into arguments against the accused.

(c) It is strange that 7th., 11th., and 12th. witnesses, all brothers, should figure as important witnesses in the case, 7th. to say that Hole Basavaya told him about the fight, the 11th. to say that near about the place of murder the accused were seen, and the evidence of these two and that of the 13th. are not such as to bring home any conviction against the accused.

(d) The fact that Hole Basavaya was examined by the Amildar only on the 10th. of June 1903, 4 days after the event, taken along with the facts that Mukunda and Jakya were first suspected and that

Hole Easavaya had to be beaten before making any statements before the Amildar (vide his deposition), make it highly probable that some others committed the offence but the boy Hole Easavaya was made to give out the names of the accused for some reason or other.

(e) That the accused are the only male members of their family which consists of six young children and a few females and that they are reduced to a starving condition owing to the want of assistance and the strong ill feeling existing between the accused and the patel and others in the village.

(f) That the 3rd. accused Adavi who is said not to have taken any active part in the struggle may at least be released, and that the statement that he pulled the arm of the deceased does not find any place in the examination in chief; and only appears in the cross examination and is probably inserted by the 6th. witness to inculpate the 3rd. accused; and it is highly improbable that the witness who seems to be so nervous as observed the fight so accurately.

In the circumstances your Highness' petitioners most respectfully and humbly pray that both in the interests of justice and in those of the poor forlorn family of the accused your Highness will be most graciously pleased to direct their release from the jail.

1 X Mark of Samaya

2 వీరయ్య

3 Mark of Adavi

Signed before me

M. Ameen ansari Aiyangar

Offg. Superintendent

12.12.06. Central Jail Bangalore

1st wife Byra Naika 2nd wife

Doddura Eerakka died 5 years ago. / Sanna Era (1st accd) Chenna (2nd accd) Kalvira

Gangee + Thimma (deceased)

Date of murder early morning of Saturday 6th June 1903

IN THE COURT OF SESSIONS FOR THE SHIMOGA DIVISION.

Sitting at Shimoga

The 17th day of August 1903.

Shimoga Session No. 8 of 1903-04.

Government Prosecutor. *Versus.* Accused.

1. Sanna Era,
2. Chenna
3. Adavi

Abstract of Charge :—Murder under Section 302 I. P. Code.

17th August 1903.

Mr. G. Row public Prosecutor for Prosecution.

Accused persons absent.

After waiting till 12 o' clock for the prisoners to turn up, the Court considers it necessary to bring the matter to the notice of the District Magistrate. No Police Constable was in attendance to keep order in Court or to guard the Prisoner in another case. A written voucher had been given to the Police on Saturday last to produce the accused persons today at 11A. M. and this has not been complied with.

At the request of the Court Mr. G. Row goes and speaks to the District Magistrate in this matter. A docket has also been sent to him.

12-20. Accused persons are now brought into Court. Mr Garudachar appears for them.

The charge is read and explained to the accused persons. They plead not guilty.

Assessors :— { Mr. Lakshman Row.
Mr. Maheshi Manjappa.

Witnesses Mr. Krishnappa, Vidvat Siromony Pillay, Sheik Ahmed, Fakeer and Earappa Gowda *alias* Lingappa. 1 to 5 examined.

Exhibits A, B, B (1), and B (2) filed.

Articles Nos. 1 to 8 produced.

It being 6 P. M. now adjourned to tomorrow 17-8-1903.

18th. August 1903.

Hole Basya, Thimmanna, Runga and Ganga examined *i. e.* Nos: 6 to 9. Adjourned to tomorrow.

S. V.

19th August 03.

Sivappa Gowda, Gonya, Basaya, Mallaya, Thimmanna and Bharmappa 10 to 15 examined. C was filed. Adjourned to tomorrow.

S. V.

20th August 03.

Harakka, Gangavva, Basi, Seenappa and Hutchoo Row 16 to 20 examined. D, D (1) and E filed. Mr. G. Row dispenses with the evidence of Venkatappa. Statements of accused persons given before the Magistrate read and filed as Exhibits F, F (1) and F (2).

Mr. G. Row closes case for prosecution.

Accused persons examined.

Mr. Garudachar dispenses with the witnesses cited for the defence.

Accused persons also say they do not want to examine the witnesses.

It being 6 P. M. now Mr. G. Row says he is unable to proceed and moves for an adjournment till tomorrow for argument. Adjourned to tomorrow.

20-8-03.

S. V.

21st August 03.

Arguments heard.

1st Assessor Mr. Lakshmana Row says he is doubtful and therefore he is of opinion that the accused persons are not guilty.

2nd Assessor Mr. Maheshe Manjappa is also of the opinion that the prisoners are not guilty since he has doubts.

As there is no time to write judgment now adjourned to Monday the 24th instant there being another Sessions case for tomorrow.

S. V.

The 24th August 03.

For judgment see separate sheet.

24-8-03.

S. V.

IN THE COURT OF THE SUB DIVISION MAGISTRATE SAGAR.

Case No. 59 of 1902-03.

Complainant.		Accused.
Sorab Police	Versus.	1. Sanna Era. 2. Chenna. 3. Adavi.

I C. S. Balasundram Iyer Magistrate of the Sagar Sub-Division hereby charge you 1. Sanna Era, 2. Chenna, and 3. Adavi as follows:—

That you on or about the 6th day of June 1903 at Chick Chowti in the Sorab Taluk caused the death of Thimma by beating him with a club

and other weapons and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session, Nagar Division.

And I hereby direct that you be tried by the said Court of Session on the said charge.

Dated the 24th day of June 1903 Sorab.

C. S. BALASUNDRAM IYER.

Magistrate.

Read and explained to the accused in Kanarese.

24-6-03.

C. S. B.

Deposition of Mr. Krishnappa 1st witness for prosecution.

amildar

Age 51.
Race—Smarta Brahmin.
Religion Hindu.
Father's name—Subba Rao
Resident of—Sorab.
Occupation—Amildar

Duly affirmed.

I am the Amildar of Sorba Talook. The village of Hire Chowti is about 26 or 27 miles from Sorab. Chikka Chowti is about 1½ miles from Hire Chowti. Chikapur is a street in Hire Chowti.

I received first information in this case on the 6th June 1903 at about 11 o'clock or later in the night. I got it at Sorab. I reached Hire Chowti at about 8 P. M. on the 7th Idem. I did not hold any proceedings then. The inquest had been held before then.

I commenced the investigation on the 8th. I examined the place of the alleged murder and took down the statements of Eerakka, Gangawa, Hanumantha and Dasi that day. On the 9th I examined Maliari, Gonya, Basya, Thimmah and Venkatanna. On the 10th I examined Hola Basya and Ranga. On the 11th I examined Potail Sivappa and Kharmappa. On the 12th Nigodi Fakeera Yennekoppa Potail Lingappa, Police constable Mockoonda, Yennekoppa Eerappa and Vadder Thimmah. I did not examine any body afterwards.

The accused persons were under arrest before I came to Hire Chowti on the 7th.

I got a plan prepared by the work Inspector. I pointed out the places to him. I also gave him instructions. He prepared it under my supervision.

Cross-examined:—I don't recollect on what date I got the plan prepared. I gave evidence till now after consulting my diary. My diary does not contain any entry as regards the plan. There is no order that I should enter such matters in the diary. I don't know that it should be entered. If the plan had been prepared under my supervision it should be signed by me. I don't recollect if I signed it or not. I don't recollect if I sent copy of the plan to superior authorities. There is no entry in the diary to show that I sent it

It was at about 10 or 11 A. M. when the plan was written out. It was written out in the Temple in Hire Chowti on the jagalee. I don't know the name of the Deity there. I had put up in that temple. Jamadar Hucha Rao had put up in another temple. Duffadar Seenappa did not put up with me. I don't know where he put up.

I did not prepare any sketch myself. The Work Inspector's name is Sankar Rao. I did not send for him. I don't remember the date on which he came to Hire Chowti. When I left Sorab I told him to come. He came on the 8th or 9th. I don't recollect if he came before or after I examined witnesses on these days. I did not take the Work Inspector to the various places named in the plan, either on the 8th or 9th. To the best of my recollection I took him there on the 10th or 11th. I did not however record in the diary that I showed the places.

On the 8th I inspected the houses of the accused persons and complainant also the place where the body was stated to have been lying. The other places mentioned in the plan were not pointed out to me by any body. By the time I pointed out the places to the Work Inspector I had finished the examination of the witnesses who had shown the same to me. I did not take those persons' signatures to the plan nor did I record any Mahazir as to their having shown the places to me.

The accused persons had been lodged in a temple when I arrived at the village. I don't know if this is the temple in which the Jamadar had put up. I saw them in a temple. I don't know if the jamadar had also put up in it. I don't know what temple it was in which I first said Jamadar Hutcha Rao had put up.

Four persons had been lodged in the temple, 3 of them are accused now before the court. The other was Jakkaya. After I arrived in the village one Mookoonda was also arrested. He was a police constable. He held that post when arrested. He is the person who I said was examined by me as a witness on the 12th. It was after I took down his statement I arrested him.

I obtained an order of remand for all the 5 Prisoners till the 22nd June. The Sub Division Officer granted the remand. I discharged Jakkaya and Mookoonda on the 22nd June. I obtained no order from the Magistrate in that matter.

My investigation was completed on the 12th Idem. The name of Jakkya and Mukunda had been mentioned in the 1st report. I have discharged them on their own recognizance. I have not recorded any order to cancel the same, nor has the Magistrate passed any such order. Neither did I report to him that I have let them on their recognizance.

Sivappa Gowda is Potail of Hire Chowti. I told him to bring people and to trace out the instruments by which the murder was committed. I also told him to bring before me all those who knew any thing of the murder. I examined the persons when he produced.

I examined all the witnesses in the temple I had put up.

On the 8th I examined witnesses from 2 to 6 P. M. On the 9th from 8 to 10 A. M. and 2 to 5 P. M. On the 10th from 8 to 11 A. M. and not in the afternoon, on the 11th I did not note the hour when I began examining witnesses nor when I finished the same. I think I examined them in the forenoon and in the afternoon. On the 12th also I did not note the hour. I don't recollect who were the witnesses examined in the forenoon, noon or afternoon that day.

I recollect having seen Bharmappa Gowda on the 8th. He is Potail of Chicka Chowti. I don't recollect having seen him on the 9th. I can't say I did not see him that day. I don't recollect that I saw him on the 10th. I can't swear that I did not see him that day.

Sivappa was present at the investigation on the 8th. He was present when Earakka was examined. I have taken down a statement under his signature to say that she was examined in his presence. Jamadar Hutcha Rao wrote down her statement.

I have recorded the statement with reference to Sivappa Gowda having been present and to witnesses having been present in the examinations of Earakka, Gangavva, Dasi and Hanumantha. As their examinations took up time I did not examine Sivappa Gowda that day. The next day too it appeared to me that the witnesses examined that day were important and their examination having taken up time I did not examine Sivappa Gowda that day also. For the same reason I did not examine Sivappa Gowda on the 10th. As I was engaged in examining more important witnesses I had no time to examine Sivappa Gowda and Bharamappa Gowda till the 11th.

Bharamappa Gowda was present when I examined Mallari on the 9th. Hole Basya was not in the village on the 8th and 9th. I don't recollect who brought him before me. I am not able to say at what hour he was produced before me. I told Potail Sivappa Gowda and the Jamadar on the 8th to produce him. I don't know if Ranga was in the village on the 8th and 9th. I did not enquire about this. I had no time to examine Thimma on the 8th and I did not enquire if he was in the village that day. I don't recollect if I told any body to produce him or if any brought him before me. I am not able to say if I examined him in the morning, evening or noon.

Wadder Thimma was not to be found in the village till the 12th though I sent for him.

No re-examination.

I took over charge of the Taluk on the 14th November last.

Read over in Kanarese and acknowledged to be correct.

S. VENKATAVARADAN IYENGAR

17-8-1903

Sessions Judge.

Further Cross-examination:—Sivappa Gowda was present when I took down Hole Basya's statement and recorded a shara that that witness was examined in his presence. I think there is an order in the Police Department that depositions must be attested by witnesses.

No re-examination.

Read over in Kanarese and acknowledged to be correct.

S. VENKATAVARADAN IYENGAR

17-8-1903

Sessions Judge

Deposition of Vidwath Siromani Pillay 2nd witness for Prosecution. Hospital Asst.

Age—38.
Race—Vellaul Pillay.

Hospital asst.

Religion—Hindu.
Father's name —Pannasami Pillay.
Resident of—Soraba.
Occupation—1st class Hospital Assistant.

Duly affirmed.

On the 7th June 1903 the body of one Thimma was brought to me at 2 P. M. for *Post mortem* examination. Constable Sheik Ahmed brought it. I examined it in the Hospital building in Sorab. I observed marks of violence on it as set forth in detail in my certificate Exhibit A. Death was due to compression of the brain and rupture of the spleen. The spleen was not diseased.

The concussion of the brain was due to effusion of blood by reason of wounds on the head. Those wounds were caused by a sharp edged instrument.

The rupture of spleen was due to blow on the back of the abdomen by means of a blunt weapon over the region of the spleen. The other marks of injury were all caused by means of a blunt weapon.

The congestions recorded in the certificate were also due to blows.

The bones of the forearm, right fore-arm had been fractured.

The bruises were due to friction.

The injuries indicate homicide and not suicide.

I see cloths marked Numbers 1, 2, 4, 5, 6, 7. and, 8 also club marked 3. There are stains on these cloths. They look like blood. Not all the stains. Some are suspicious. There are stains on the club which also look like blood.

The wounds described in the certificate under head external appearances as likewise the rupture of the spleen might have been caused by a club of the kind like article No. 3.

The incised wounds might have been caused by a kodali &c. or by a chopper or by a big knife or by a sharp edged stone.

Cross-examined. The Œchymoses described in the certificate might be caused by a fall but not to such an extent as is mentioned in the certificate.

The bruises might have been caused by the body having been dragged.

Rupture of the spleen may be due to a fall, but in my opinion the ribs would not be congested so much as is mentioned in the certificate.

If a cart had passed over the deceased there would be mark of the wheel and also fracture of the rib. The ribs were all right and in fact, on the side and the abdomen.

All the blows dealt to the deceased were not of the same severity.

This shows that No. 3 could not have been the blunt weapon used.

There are knobs on stick No 3. If those knobs had come in contact with the body they would have marks there. I observed no such marks.

The stains look like blood. I have no authority to say that they are blood. Betel-nut juice may produce such stains.

I have no authority to say that the stains in the cloths are blood. Areca-nut juice can produce such marks.

The Police sent me a copy of the inquest report with the body.

Why should the inquest report be sent?

The skin had peeled off from the nipple to the navel pit. This must have been caused by a sharp instrument. The instrument having slipped over superficially the skin may be peeled off. I can only say that the instrument must have been over 4 inches in breadth, or 4 inches. It cannot be less. The instrument must be a sharp one.

The face and neck were swollen. I am not able to say whether death was or was not instantaneous. The deceased may have died an hour or two after the injuries or earlier. Rupture of the spleen was enough to cause death, so also effusion of blood to the brain. Both may have caused the death.

There cannot be rupture of spleen without rupture of capsale. There can be compression of the brain without wounds. All the wounds were caused when the decesed was alive. Wounds can be caused immediately after death but in that case the adjacent tissue will not be swollen though clots of blood can be found. I have not stated in the certificate that the adjacent tissues were swollen.

Re-examined. In this case my opinion is that the injuries were caused during life. In this case death could not have been caused by a fall.

The peeling off the skin was not due to a cart wheel passing over the body because it commenced abruptly and ended abruptly.

The knobs may or may not leave marks on the body.

Read over in Kanarese and acknowledged to be correct.

S. VENKATAVARADAN IYENGAR

17-8-1903

Sessions Judge,
Shimoga Division.

Deposition of Sheik Ahmed 3rd witness for prosecution.

The constable who took the body like H. A.

Age—37.
Race—Musalman.
Religion—Sheikh.
Father's name Rahiman Sahib.
Resident of—Here Chowti.
Occupation—Police constable No. 68.

Duly affirmed.

I knew Here Chowti Thimmia. He is dead. The Duffadar handed over the body at 6 or 7 P. M. on the 6th June last. I carried it in a cart and delivered it to the Hospital Assistant there. I carried the body with care.

Cross-examined:—The body was delivered to me at the Desaye Vaddu. I went there at 11 A. M. from Anvatti with the Duffadar. I stopped there till 6 P. M. The Duffadar also remained there till then. From 11 A. M. to 6 P. M. the Duffadar was engaged in writing. Thimmia son of Dasa was present then. I did not see Wadder Thimmia there then, nor Basya, nor Ganga.

The cart belongs to Erakka. I walked behind it. It travelled all through out.

I know Mallari. He was not present at the inquest That day was Sunday. I delivered the body to the Hospital Assisant on Monday, *i, e,* I delivered it on Sunday. I returned to Here Chowti on Monday evening.

Jakka was not present at the inquest. Mookunda was present then. The accused persons were in their houses then. I was told to bring punchayatdars. So I went to the village. I then saw accused persons in their house No body told me to call them.

Kachvi Lingappa was present at the punchayate. The Duffadar told me to fetch some intelligent men ಬುದ್ಧಿವಂತರು. I mentioned this to the Patail Sivappa Gowda. He sent Talvar Bheema to bring Annappa, Kachvi Lingappa, Viesyara Ramanna and Parvanna. The Talvar brought them. Potail came with them.

Bharmappa Gowda, his son Chenna Basappa Gowda, a Talvar, and a Barik were at the corpse when we came there at 11 A. M. that day. So also Mookunda. I brought the Varesdars of the deceased there.

Re-examined. Some 7 or 8 persons were present at the inquest.

Read over in Canarese and acknowledged to be correct.

S. VENKATAVARADAN- IYENGAR.

17-8-1903

Sessions Judge,

Shimoga Division.

Deposition of Fakeera 4th witness for prosecution.

sup. 65.

Age - 30 (looks over 40).
Race—Vakkal.
Religion—Hindu.
Father's name—Earappa.
Resident of—Thoravethippa.
Occupation—Cooly.

Duly affirmed.

I know the 2nd accused. He is known as Channanna. I had seen him in Yennekoppa some 2½ months ago. He came to me and asked for a charm saying that his children were ill. I gave a paper charm to him.

I know the deceased Thimma. 2nd Accused did not tell me anything about him. I don't know how to make *mata*. I don't know what is meant by *mata*. I don't know to kill any body by sorcery. I don't know what that art is called. The 2nd accused did not speak to me about *mata*.

I might have been examined by the Magistrate. Yes. I was examined at Soraba. I did not depose before the Magistrate that *mata* meant causing sickness or death by sorcery. The 2nd Accused did not ask me if I knew to make *mata*. Nor did I depose that he asked me so as recorded in Exhibit B now translated to me.

I don't know Police peon Mookunda. I did not say before the Magistrate that Police peon Mookunda had come to me 5 or 6 days after 2nd accused saw me. I did not depose so before the Magistrate as recorded in Exhibit marked B (1) now read and translated to me. Mookunda never asked me for any charm nor did he tell me his child was ill.

I visit Earappa Gowda's house now and then. I cannot say if

Mookunda had ever come to me when I was in that Gowda's house because I don't know Mookunda at all.

The whole of the deposition marked B(2) is now read and translated to me. Yes. I did depose before the Magistrate in Soraba as recorded in it (Mr. G. Achar says that the deposition should not be read but the witness's attention should be drawn to each item separately.) I did not go with Mookunda nor do I know anything of his having asked if 2nd Accused Chenna had come to me. I did not give any charm to Mookunda.

The Police examined me in Hire Chowti. I know the Potail of Yenne Koppa. He got angry with me for admitting all sorts of people and told me to leave the village. I then went away to Thoravethippa.

Cross-examined.—I did not know 2nd Accused before he asked me for the charm. He never came to me before then nor subsequently. Some boys called him as Chennanna and so I concluded that his name was Chennanna. I don't know who these boys were. I did not ask 2nd accused what his name was. Nor did he mention it to me.

Police constable Hoosani took me for examination from the Fair at Hire Chowti. It was about mid-day then. He took me to the temple. I don't know what is the deity there. The Amildar was there. So also Sivappa Gowda. I don't know if Bheemappa was there. I did not see Lingappa Gowda then, nor the accused persons. They were not shown to me there.

This man not examined

It was when I was examined in Sorab that I saw the Accused person. Many persons came to me for charms. I don't recollect them.

I never lived in Hire Chowti.

The Amildar examined me on a Friday. I can perform the Raja Nataka. My house is in the Dharwar Taluk.

No re-examination.

By the Court.—2½ months ago I used to get fever. I gave evidence before the Sub Division Officer in Sorab while I had fever on. I don't know if I mentioned truth or not in the Sub Division Officer's Court when examined in Sorab.

Read over in Canarese and acknowledged to be correct.

17-8-1903. S. VENKATAVARADAN IYENGAR.

Sessions Judge,

Shimoga Division.

Deposition of Lingappa Gowda 5th witness for prosecution.

Age—33-34.
Race—Lingayata.
Religion—Hindu Muskin Malavavaroo.
Father's name—Mallikarjunappa.
Resident of—Yenne Koppa.
Occupation—Patail.

Duly affirmed.

I know Fakeera (4th witness). I did not know the deceased Thimmiah.

I have heard of his death. Before I heard that, Fakeera lived in my village for 10 or 11 days. He was saying he would give charms and amulets.

I know Earakka. She had come to my village 8 or 10 days before I heard Thimmia s death. She gave some information about Fakeera. I saw him that evening and told him to leave the village since he had no relation there.

I know the accused persons. They came to my village. I don't know if they or any of them came there when Fakeera was there. They are always coming there.

10 *Cross-examined.* They have dealings with me and therefore they come to me.

Erakka came to me that day to ask for money I do not know if she has dealings with Erappa Gowda.

I don't recollect on what day of the week I heard of Thimmia's death. The Amildar came to my village and said that as the dead body was lying in Here Chowti he had to go there.

It was sunset then. Here Chowti is about 2 miles from my village. He did not stop in my village that evening but passed on.

The 1st Accused had come to me 1 or 2 days previously. He came at 20 about an hour before sunset. I had sent for him to demand payment due to me. He put up in my house that night. He went away next morning after sunrise. The next day or so the Amildar came.

Fakeera did not take meals in any particular place when in my village. He used to take them in any house he liked. I did not make any enquiry about him before I told him to leave the village. I don't know if he knows to make *Mata*.

Fakeera was present when the Amildar took down my statement. So also Bharamppa and Sivappa Gowdas. I did not see Erakka then. I am also called Ningappa.

Re-examined:—On the night 1st accused came to me, I slept inside my 30 house and come out in the morning when sun was just rising. I don't know where he slept that night. I told him to sleep in the backyard. On getting up I went to the cattle shed, had grass given to them and then came out. 1st Accused was then seated there. It was cloudy then. I am not able to say how long after sun rise it was then. On seeing me he said he would collect money by the fair day and meet my demand. I told him to go away and he disappeared.

Read over in Canarese and acknowledged to be correct.

17-8-903. (Sd) S. VENKATAVARADAN IYENGAR.

40 *Sessions Judge,*
Shimoga Division.

Deposition of Hale Basya 6th witness for prosecution.

Age—Does not know. (looks about 16)
Race—Eadiga.

Religion – Hindoo.
Father's name—Huleyanna.
Resident of—Hire Chowti.
Occupation—Agriculture.

Duly affirmed.

My father lives in Hire Chowti. I live in his house there. He had a toddy shop in Oodree. We left that place a month and a half ago. Ranganna is my sister's husband and lives in Here Chowti.

I know Dodmane Thimmanna. He died 2½ months ago. I lived then in my own house in Here Chowti. Ranganna also lived there. When Thimmanna died my father was in Oodiee. The accused persons beat and killed Thimmanna. This they did near the chowdee tree at Desayi Waddu. It was early morning then. The sun had not come out yet. People's faces could be seen. Thimmanna ran but the accused persons pursued him and beat him on the back. The 1st accused struck him with a club. The 2nd accusd struck him with an axe (kodali). I did not observe anything in 3rd accused's hand then. Thimmanna ran on crying out Iyyayyo but accused persons followed him and beat him. A blow from 1st accused's club then felled Thimmanna to the ground. Thimmanna fell down crying out "I die"

I was driving my cart then to go to my paddy field. The 1st accused saw me and abusing me came towards me shaking his club at me and saying "why did you come here". The bullocks shied at him by reason of his club. They turned the cart towards the paddy field and capsized it. I fell down from the cart and ran away to my house. As I passed the dry field behind the waddar's quarter on my way home I saw Waddar Thimma. He questioned me where I was running away leaving my cart. I told him that the accused persons were beating Thimmanna, that 1st accused on seeing me abused me and threatened me with his club and that my bullocks shied and capsized the cart whereby I was running home. On reaching home I found Ranganna there. I told him that the cart fell down. He asked me why. I told him what had happened. He told me to call my uncle Ganganna. He was in his house. I went there and called him. I brought him. Ranganna told to go and set the cart right. I took Ganganna with me. I had loaded the cart with manure. All that had been spilt. Myself and Ganganna picked it up and refilled the cart, after setting it right. Just now the fever has come up on me. I will give remaining evidence tomorrow. (*Note.*—The witness is perspiring now) I am not able to answer further because I have fever. (*Note.*—Mr. Garudachar feels the witness and says he is cool.)

Note.— At the request of Mr. G. Row the witness is allowed time and sent out, another witness is called.

18-8-903. S. V.
Sessions Judge.
11-53.

1-30. P. M. The witness is called into Court.

Duly affirmed again.

My head is still aching. I get fever once in 4 days since 6 months. I have no fever on now. I am not able to answer questions yet.

After Ganga and I took the cart to the Paddy field and emptied the

manure there we returned. On the way we found people collected there. The dead body was lying below the bund and people had collected on the bund. I took the cart home and being afraid went away to Oodree. My father and mother were there.

When I brought the cart home my brother-in-law Ranganna was in the house. It was about the present time when I left home for Oodree. (1-40 P. M). I stopped in Oodree on Sunday and Monday. Ranganna then came there and brought me to Hire Chowte saying that the Police wanted me. The Amildar had come there. I told him all that I knew.

Cross-examined:—My uncle Ganganna loaded the cart with manure on Friday evening. He did not tell me he would come with the cart. As my brother-in-law was ill then I had to take the cart alone and empty it in the paddy field. The previous day too I drove the cart. My brother-in-law put the manure into the cart that day.

When I took the cart on Saturday morning there was the gwari (spade) in it. We don't take basket then. The morning had dawned when I left home. Ranganna was ill with fever then. He had not arisen yet. He was lying down yet but I don't know if he awoke. I did not wake him up. Nobody woke up me. I myself got up. People were carrying manure to the fields then. Every body must go by same way. It is a high way. People walk about in it. That is the road to Anvatti. On Saturdays, the fair there takes place. People don't go there at nights or in the mornings. They go there after meals. I did not stand in the road and see who go and who not.

There are ruts in the road as deep as the knee. There are two ruts with high ground between. The wheels must go in the ruts, when the cart is turned it is upset. One of the wheels of my cart ascended the high ground and while the other remained in the rut the cart was upset. The whole manure got spilt on the ground. As soon as I fell down I got up at once and ran away.

When I left home that morning with my cart I met no other cart on the road. No body came with my cart then. I did not see Waddar Thimmanna then. After I brought my cart to the chowde tree I observed a cart standing in 1st accused's paddy field. That cart was as far from the tree as the Munsiff's Court is from this Court. I did not see any other cart there. I did not see deceased Thimmanna's cart there.

I observed the deceased getting up the bund but the accused persons took him down from there. I observed this 2 or 3 times. He used to run up the bund and they used to follow him and beat him. He used to run down and they use to run after him. Nobody had caught hold of him. He used to call out "Iyyayyo" in a loud tone. I was driving my cart then. The 3rd accused was pulling the deceased by the arm. I did not observe what arm. I don't know on what part of the deceased's body the blows from the Kodali and Donni fell. I heard the report of the blows Dappoo-Dooppoo. Both the 1st and 2nd accused used to strike him at the same time.

They struck him from his back while he was running away. The kodli had a handle as long as my mola. The iron part was about the width of 4 fingers of mine. It had the edge only on one side. There was no goodlee there. The club was white of the kind generally used for the sides of the carts. I don't know of what wood it was. I did not observe the wood. It was as long as my arm and chest. It was not quite as big in thickness as the arm of a chair. It was somewhat less thick.

There is no slope at the Kodee. From the kodee the place where these people were fighting can be seen. The noise of the cart can also be heard.

I did not tell anybody in Ocdree about having seen the fight except to my father.

My brother-in-law came there on Monday in the evening and brought me back on Tuesday. We went direct to our house. It was sunset time then. On Wednesday Sivappa Gowda sent for me. The Talvar came and took me to a temple. That temple is not Kallappa Temple. The Amildar and Potail Sivappa were there. I did not see anybody else there. I first told the Potail I knew nothing in the matter of the deceased's death. He then beat me. He told me to state what I had seen. The Amildar was present when I was beaten. He told me to state what I know. My brother-in-law was present then. He too said he knew nothing. The Amildar threatened him to state what he knew. The Potail did not tell me what I knew and to state that. It was after I received the beating I stated what I know. I did not mention it before the beating because I was afraid to do so. I was afraid I would be beaten and so I did not state anything before the beating. My statement was then taken and my brother-in-law's attestation was taken to it.

The Jamadar did not take me to Soraba. Sivappa Gowda and I went there with my brother-in-law.

When we want paddy we bring it from Bharmappa Gowda's house. We owe him paddy yet.

When we were coming to Court in Earakka's cart the Police Inspector met us near Siralkoppa and making me get down from the cart took me to a distance of a few yards. He told me to state well in this Court what I knew. He told me this when I was alone. I replied I would depose well. He then went away. Sivappa Gowda did not take me to any lawyer's house here. He did not question me what I would depose.

This cannot be taken for 1st accd. was not there.

Re-examined.—I did not mention matters to the Amildar when he first questioned me because I was afraid the 1st accused would beat me. Sivappa Gowda beat me on my cheek with his hand.

I mentioned to the Committing Magistrate that I left my house on the Saturday in question by evening. I meant then the present hour (3 P. M).

Ryots cart manure to the field 3, 4, 5, 6 times a day. It depends on the condition of the bullocks.

When Ganga and I took our cart from where it had been upset we saw no other cart anywhere in the place.

When I was outside the Court, while Wadder Thimma was being examined, I was lying down. The Court clerk (Anantharama Iyengar) called me into the Court while I was lying down.

The road is a cart track. There is no other to Anavatti. I did not tell anything to Ganga because I thought my brother-in-law had mentioned every thing to him.

By the Court at Mr. G. Achar's request.—The Amildar who examined me in the temple is now seated in Court.

Read over in Canarese and acknowledged to be correct.

18-8-03. S. VENKATAVARADAN IYENGAR,

Sessions Judge.

I was making noise in urging the bullocks.

The place where my cart capsized was about 4 Baroos from where the body was lying. It was lying in the cart rut, cart could not therefore be taken there.

Nobody pursued me after my cart fell down. The deceased did not tell me anything. It is not necessary to go to Mulla Sab's Hakkal when going from there to my house. That Hakkal is however visible. I did not see any cart there. It was after Thimmanna's fall into the rut crying that he died that I ran away.

When I reached Wadder Thimma's Hakkal he was there with a chamboo in his hand. I was outside the Court when he was examined. I was seated at the wall outside. I did not hear what Wadder Thimma deposed in Court.

That morning I spoke to him while running. I did not stop at all. There is a hedge in the Hakkal. I had passed it when I spoke with him. I did not tell him that the 1st accused wanted me to turn my cart. The bullocks were not unyoked when the cart fell. When I reached home the sun was begining to rise.

When I returned to the cart with my uncle Ganga we took nothing with us. I did not tell him why the cart fell down. As the cart was empty we could and we did set it right. There was nobody else there then. We did not see anybody there then, nor any cart. It was about half an hour after sunrise then. There was a basket lying near the chowdee tree. I don't know it was. We took it and made use of it in refilling the manure into the cart. I did not observe the basket there when I ran home. It took us about an hour to fill the cart. I saw the dead body then. I did not tell Ganga anything even then. He never asked me how the cart fell down.

As the body was lying there we turned the cart back crossed the kodi and took the cart in the bed of the tank to the paddy field. Then too we saw nobody there.

I did not go near the dead body. Ganganna too did not go near it. There was blood on the face of the body.

When we were taking our cart from the place where it had been upset, we observed after we crossed the kodi the 1st accused's cart coming from the village. Amruth Mahal bullocks had been yoked to it. The bells tied to the animals were jungling. The cart had been loaded with manure. The 3rd accused was driving it. The 2nd accused Chennanna was coming in front of it. I did not see anybody else.

When we observed the body on our return from the paddy field we did not see Sivappa Gowda there, nor Bharmappa Gowda. They were not there. The whole village was there. Earakka was there. It was about an hour and a half after we took our cart from the place where it had been upset when we observed the people. No Policeman was there then.

The road to Thimmanna's field is by the road where his body was lying. Neither I nor Ganga went near the body or the people.

Because I saw blood I got afraid. Nobody told me that any Policeman had taken down my name. On going home Ranganna asked me to take meals but I went away without doing so. I was so much afraid then. Ranganna sent me away to Oodree. He did not tell me to go away by reason of the Police having taken down my name. I deposed before the Magistrate that my brother-in-law sent me away saying that the Police had written down my name and I should therefore go and stop in Oodree for a few days.

and asked him to turn the cart and that while doing so the cart was upset. I don't recollect this however.

I mentioned this matter only to Dasee that morning and to nobody else. I did not tell Dasee that his father had been cheated.

I went and saw the body at about midday. I did not go there till then. Sivappa Gowda and Bharamappa Gowda were there then. Other persons were also there. I did not see any Policeman there then. My younger brother Basya was not there, nor my elder brother Ganga, neither Sanna-Thimma. As soon as I went there Sivappa Gowda and Barmappa Gowda left the place and I came away with them. Earakka, Gangakka, Dasi and Hanumantha were there when I left it. I did not go near the body. I looked on from the tank bund. The face had been covered up. I did not see the wounds. The bund was about 5 Baroos from where the body was lying.

I did not mention any thing to Sivappa Gowda or Bharmappa Gowda. I did not mention to my father or brothers what Hole Basya told me that morning.

My brothers had been to the jungle that day to bring thorns. I do not know when they went. They were not in the house when I left it that morning while going to the Hakkal for attending calls of nature. I did not see them then nor enquire where they were. I saw them at home when I returned from the tank bund after seeing the body. They told me nothing. Nor did they question where I had been to.

The next day Sunday I went away to my sister's house, Hankala which is 2 Hardarees from my village. I stopped there for 2 or 3 days and then returned home.

I was there on Monday. I do not know if I stopped there on Tuesday or not. I do not recollect on what day I returned. Some 2 days after my return *i. e.* on a Friday the Amildar sent for me and examined me. The Talvar took me to the Amildar. He took down my statement in the Thirumal Devara Goodi. Shivappa Gowda may have been present then. I do not know if he wrote my mark in my statement.

7. I did not tell the Amildar that when I observed Dasee that morning and told him what Hole Basya told me, Dasee was going weeping and saying that his father had been killed. Nor did I tell the Amildar that I saw people going that way saying that Thimanna had been beaten and killed. I might have told the Amildar that I mentioned to Dasee that if Hole Basya was questioned he would state every thing. I told Dasee that Hole Basya told me that accused persons and Thimma were fighting. I did not tell the Amildar that I observed the wounds. I told the Amildar that the body lying there was Thimmanna's. As his wife, mother and children were all weeping there and as Hole Basya had already told me about the fighting, I concluded that the body was Thimmanna's.

I don't know if my father had been taken to the temple on Sunday morning. I was away then in my fields. I was not taken to the Temple that morning. When I left home that morning my father and brothers were at home.

The body was lying at the boundary of my field.

There was no dispute between me and the accused persons in connection with the water required for my sugar cane garden. They did not pull off my hedge. I came to Court from my village in Erakka's cart. Gangakka, Dasee, Sana Thimma, Mallari, Malla and myself and Erakka all travelled together. Hole Basya and Ranga also Ganga, Basya all travelled together. We came in two carts. Both belong to Erakka.

Deposition of Thimma 7th witness for Prosecution.

Age—Says he does not know. Looks about 35.
Race—Wadda.
Religion—Hindu.
Father's name—Durganna.
Resident of—Hirechowti.
Occupation—Agriculture.

Duly affirmed:

I know Doddamane Thimma. He died about 2½ months ago on a Saturday. There is a Hakkal behind my house. I went there that morning to attend calls of nature. As I was going there from my house Hole Basya came from the opposite direction. I asked him where he had been to. He replied 'to the paddy field.' He was running. I asked him why he was running. He said that accused persons and Thimma were fighting, that his cart fell down owing to 1st accused having threatned the bullocks and that therefore he was running home. He ran home. I proceeded to the Hakkal and attended calls of nature there. As I was going home from there I saw Dasee son of the deceased running towards the paddy field. I told him that his father and the accused persons appeared to be fighting and that if the Eadiga boy was questioned everything would be known and went home. The Eadiga boy is HaleBasya. Dasee went on towards the paddy field without giving me any reply. He ran to the paddy field.

Cross-Examined.—Waddar Ganga is my own brother. We both live in the same house. Waddar Basaya is my younger brother. We all 3 live in the same house and jointly.

When I met the Eadiga boy the sun was rising. I mentioned to the Committing Magistrate that the sun was shining then. I did not see the Eadiga boy when I was returning home from the Hakkal. I did not see him taking the cart to the paddy field. It is only after he told me that the cart fell down I learnt he had taken it out. The way to his house is on the Hakkal. It was after he went away I sat down to attend calls of nature.

He told me that Sanna Eranna, Chenanna and Adavanna (the 1st, 2nd and 3rd Accused) and Thimanna (deceased) were fighting. While running he stopped a little to answer me and ran away. He did not stay there. He talked to me while walking.

I may have taken a galige of time on answering calls. I had water with me in a Chemboo which I had carried with me. After washing myself I got up, and as I was still standing I saw Dasee. I did not see any body going that direction before Dasee came. I did not see people going there or hear anybody saying there that Thimanna had been beaten and killed. Dasee came there as I finished washing myself. Behind him were coming some females. I did not observe them. They were coming near the village gate. I did not observe how far behind Dasee they were. Nor did I notice how many they were. Dasee too came from the village gate. By the time he came to the Hakkal the sun had gone high. The distance between where I attended calls of nature and the village gate is as much as a stone throw (*i. e.*) as much as this Court is from the Munsiff's Court. As he was running away I called to him from where I was standing. I asked him where he was going. He said 'Cart did not return.' I then said that Hole Basya told me that the accused persons and the deceased were fighting and observed that the cart might have been driven over their land. Hale Basya did not tell me that he was told to drive his cart. He told me that the bullocks got frightened and upset the cart. It might have been recorded by the Magistrate as now read out and explained to me that I stated that Hale Basya told me that 1st Accused abused him

Sivappa Gowda and I are in good terms. His cart came with ours. He and Bharmappa Gowda travelled in the same cart. We had all put up in the same place here. Earakka cooks for all of us. Both the Gowdas have put up with us. Earakka pays our expenses. The Jamadar came to us the day before yesterday. He took some of us to the Lawyer's house, but I do not know whom. He took me also there. I did not go to the Lawyer again.

As my sister had asked me some days previously to come and help in ploughing paddy field I went to her on Sunday. She did not say that I myself should come. She asked any of us to come. I went.

Re-examined. When I saw Dasee in the Hakal he was 2 or 3 baroos from me. There was a hedge between us.

The place where the body was lying, was within the limits of Chicka Chowtee. I did not observe any blood there, but in the place where I was standing *i. e.* on the bund there was blood.

Read over in Canarese and acknowledged to be correct.

S. VENCATAVARADAN IYENGAR.

18-8-1903.

Sessions Judge.

Shimoga Division.

Deposition of Ranga 8th witness for prosecution.

Age—28.
Race—Ediga.
Religion Hindu.
Father's Name—Govindanna.
Resident of—Here Chowti.
Occupation.—Agriculture.

Duly affirmed.

The elder sister of Hole Basya is married to me. Hole Basya's mother is my elder sister.

The deceased Thimmanna died on the next day after fair in our village *i.e.* the next day after Friday *i. e.* on Saturday. Hole Basya was living in my house in Here Chowti then. He had taken the manure cart that day. He left home with the cart early in the morning while it was still dark. I was suffering from fever then. He came back alone after sun rise.

Question. What did he say to you then? *Note.* Mr. Guru Rao contended that though what Hole Basya told the witness as to what he had seen may not be legal evidence as against the accused persons it is necessary to confirm. Hole Basya's evidence as to what he had seen by proving what he told the witness immediately afterwards Mr. Guru Rao relies on Sec. 156 and 11 of the *I. E.* Act. Mr. Garudachar replied that these Sections do not apply. The question now in issue is whether Hole Basya saw the accused persons beat the deceased. On that point Hole Basya is himself the best witness and has been examined. What he mentioned to others as to what he saw is admittedly no legal evidence against the accused persons. It is contended that his statement in this matter is relevant for purposes of showing that he did see what he is stated to have seen. Then it means that this statement shows Hole Basya's conduct. Under Section 8 of the Evidence Act it is the

conduct of a party or his agent that can be said to be relevant. Hole Basya is no party in the case nor any agent of any party. He said he was threatened with the club by the 1st accused and therefore his bullocks got afraid and up set the cart. The accused persons are however not tried in that matter. Section 8 does not say that the conduct of a witness who is no party to the case is relevant. It has further an explanation attached to it to say that the word conduct does not include statements unless they explain or accompany acts and that statements otherwise irrelevant cannot be proved. The evidence now sought to be adduced *i. e.* to prove that Hole Basya told the witness what he had seen is no evidence of any statement falling under section 32 I. E Act Section 156 does not apply at all under para 1. Section 11 relied on by the Public Prosecutor the evidence in question would be relevant if it was inconsistent with any fact in issue or relevant fact. Of course the evidence is not so. It is said that under para 2 it is relevant because it can by itself or in connection with other facts make the existence of a fact in issue or relevant fact highly probable. In other words it is said that the evidence as to what Hole Basya told the witness he saw will render it highly probable that he did see the same. The question as to what he saw is stated to be minutely connected with what he said soon afterwards that he saw. It is urged for the defence that this will give room for introducing what is called hearsay evidence and that it is opposed to the Act. But under illustration (a) attached to Sec. 6 whatever was said by a stander so shortly before or after the alleged offence as to form part of the transaction is a relevant fact. Thus then what Hole Basya stated to the witness soon after seeing the alleged fighting and the capsizing of his cart can be allowed to be proved.

18-8-1903.

Examination continued. Hole Basya told me that his cart fell down. I asked him why. He replied that the accused persons beat the deceased and 1st accused came to beat him with a stick and that thereon the bullocks slied and upset the cart.

After the noon that day the boy went away to Oodree.

Cross-examined. I was getting fever since 15 days priviously but yet. was attending to my duties. I did not go to the paddy field the previous day. That day was 4 or 5 since I visited the field.

The manure was put into the cart the previous day *i. e.* Friday. It took me from morning till evening to fill the cart. Hole Basya went to the paddy field very early that Friday morning also. Ganga filled the cart once or twice that day, *i. e.* on the afternoon when I went for meals. I then filled the cart myself. Ganga did not go to the paddy field with Hole Basya that day. Females also did not go with him that day.

On Saturday I myself woke up the boy and sent him. I told him that it was getting late and he should take the cart. He took a gwari (*spade*) with him. He did not take a basket with him. When he returned I was still inside the house and I don't know therefore how high the sun was. There was however bright light then in the house. That light came from outside the house. A long time afterwards I left my bed. The boy returned in less than half an hour after he took the cart. I can't say if it was quarter of an hour.

Dasayi Vadoo is a man's call from my house. I did not hear any cry from there. I am hard of hearing (voluntered by witness) Question. Since when are you hard of hearing? *Note* questioned proposed in a whisper. Reply I am hard of hearing since 2½ or 3 months. I had a boil in my ear.

The boy told me the names of all the accused persons. He also told me

what they each had in his hand. He did not tell me what weapon the 3rd accused had nor the 2nd, I did not ask him on the subject.

The 1st accused and I are on very good terms. There is no enemity between us. Erakka and I are not in good terms. Last year I sent her cattle to the pound. There is zid between us. I have no dealings with Sivappa-Gowda or Bharamappa Gowda. I never brought paddy from the latter, nor did I send for paddy from him by Hole Basya. There is no friendship nor enemity between Sivappa Gowda and myself. I cultivate lands in Bharmappa Gowda's village.

I was still lying on my bed when Hole Basya went and brought Gonya. I told Ganga to go to the cart and set it right. Hole Basya was not present then. Gonya went away with a basket. He and Hole Basya returned in almost an hour and a half *i. e.* after sunrise. Gonya left the cart in my house and went home. I had left bed by that time. I had washed my face before they came. Hole Basya left for Oodri about an hour after midday. I told him to go there. By that time I learnt that Police had taken down his name. He did not take full meals that day. He ate only a little.

Sivappa Gowda sent a Talvar to me to go and fetch the boy, and I did so. I don't recollect if I told the Amildar that:— Sivappa Gowda himself came and told me to fetch the boy:— yes. I did say so to the Amildar. I brought the boy on Tuesday evening. Next morning I took him to the Amildar. The Amildar read out my statement to me. He took also my signature to it. I don't know why though I mentioned the names of all the 3 Accused Persons the Amildar recorded Sanna Eaa and others.

Hole Basya's father and I live together. I did not mention to any body till the Amildar questioned me what Hole Basya had told me. I did not tell Hole Basya not to mention it to any body.

The Amildar sent for me to Tirumala Davera Temple. I did not tell him that I did not know anything.

Re-examined.:— I was inside the house when Gonya took the basket.

Question.— What did you say to Gonya. When Hole Basya brought him. Did you only tell him to go to the cart and set it right or did you tell him any thing else and if so what. *Note.* After hearing arguments the court rules that what this witness stated to Ganga as to what Hale Basya told him is no evidence in the case.

Re-examination continued:— I borrow paddy from people when I want *i. e*, from Nagappa Gowda of Yennekoppa and nobody else.

Read over in Canarese and acknowledged to be correct.

S. VENKATAVARADAN IYENGAR,
Sessions Judge,
Shimoga Division.

18-8-03.

Deposition of Gavya 9th witness for prosecution.

Age—35.
Race—Eadigar.
Religion—Hindu.
Father's name—Siddappa.

Resident of—Here Chowti.
Occupation—Ryot.

Duly affirmed.

I saw Thimmia's remains in Dasayana Waddu one Saturday morning. It was dark yet then. The sun had arisen then. There was blood on his face.

Cross-examined. Ranganna sent me with Hola Basya to the cart. It was upset. I did not take any basket with me there. Hola Basya did not tell me when leaving his house that a basket would be lying there. We went there to fill the cart with manure after setting it right. When we left home we did not consider the question as to with what article we had to load the manure into the cart. I did not ask Hole Basya if he had taken a basket with the cart.

When we found the cart, more than half of the manure was in it. The remainder was lying on the ground. The boy and I both set the cart right. I caught hold of the pole and he the wheel. He lifted the wheel. The bullocks were not loose then. I did not observe if the spade was or was not in the cart then but the boy handed it to me there. It was in the cart. There was an old basket lying there and the boy brought it. I did not see from where he brought it. I did not observe if the sun had or had not arisen then. I am not able to say how long it took us to fill the manure into the cart. It might have occupied us quarter of an hour.

I saw the dead body before I put the manure into the cart. I saw it from a distance *i. e.*, from about 50 yards from there. The boy also looked on from that distance. I did not question him about the death of the deceased, nor did he tell me. But I identified the body at once. As the face was visible I could identify the body. The whole face was covered with blood. It did not appear to me that there was any cloth on, the body. The body was quite naked. The private parts were also so. No cloth was lying there.

I did not ask the boy as to how the cart fell down nor did he tell me about it.

Ranganna has given his bamboo bush to Sivappa Gowda. That is between his field and accused's field. It does not appear to me that Sivappa Gowda paid any price for it.

Hola Basaya was present when Ranganna told me to go to the cart. Ranganna was lying on the bed then.

The previous day I filled his cart with manure, *i. e*, on the evening of Friday after sunset. It was that manure which was carted next morning. I did not load more than one cartload.

I was in the village when the Amildar came. It was after he left that the Jamadar took down my statement. He did so in Anvatti. Sivappa Gowda was present then. He wrote my statement.

No re-examination.

Read over in Canarese and acknowledged to be correct.

10-8-03. S. VENKATAVARADAN IYENGAR.

Sessions Judge.

Deposition of Sivappa Gowda 10th witness for prosecution.

Age—48.

Race—Lingayet Muskina Maloru.
Religion—Hindu.
Father's Name—Puttappa Gowda.
Resident of—Here Chowti.
Occupation—Potel.

Duly affirmed.

The deceased Thimma died on the 6th June last, a Saturday. There is a tank by name Desayi Waddoo in Chicka Chowthi. Thimma's remains were lying on the road to the Waddoo. It was 1½ or two hours after sunrise I saw the body. The Daffadar came there about midday.

There were many wounds on the head of the deceased. The arm was broken. There were many other wounds. They are all set forth in the yadast prepared at the time.

There was enmity between the deceased and all the accused persons This is so since 3 years.

The deceased had filed a suit against the accused persons in the name of his wife. That was to come on for hearing on the 13th June last.

The 1st and 2nd accused are brothers. The daughter of the 1st accused is married to the 3rd. All the accused persons live in the same house.

Doddeera is an elder brother of the 1st and 2nd accused. He is dead. He was his father's son by the 1st wife. 1st and 2nd accused persons are sons by the 2nd wife. Gangee is the daughter of Doddeera. She was married to the deceased Thimma.

Doddeera and 1st and 2nd accused persons were divided in interest. The partition took place 18 years ago. Doddeera died some 3 or 4 years ago. After his death his lands and property came to Gangi and her husband Thimma. Then disputes cropped up between the accused persons and Thimma. Erakka is Thimma's mother and Doddeera's sister.

Cross-examined I was present at the partition between Doddeera and the 1st and 2nd accused. No deed was executed then. Others also were present then. Of them I recollect one or two and not the rest. Kachvi Kempa and Bharmappa Gowda were present then. The partition took place 18 years ago. I say so approximately. The patta of the lands still stands in Doddeera's name. He was the eldest member of the family. On his death 1st accued or the 2nd or both applied to have the Patta made out in their names. Gangi also applied that it should be made in her name. I recommended that it should be made in her name. This matter is pending since 3 or 4 years.

Earakka had filed a criminal complaint against 1st and 3rd accused persons and others. Kachvi Kempa and myself were witnesses for prosecution in that case. Earakka and I are on good terms. There were no money dealings between us.

In the suit filed in the Munsiff's Court I have been cited as a witness for Gangi. She is only a name lender. The real party taking active steps in the suit is Earakka.

I might have told the Committing Magistrate that the Daffadar came to the place where the dead body was lying at about 6 or 7 hours after sunrise. I don't recollect if I was at home or near the body then. It was near the body that I saw the Daffadar. He came from Anvatti. The road from there lay there. Police peon Mukunda was there then. So also Bharmappa

Talwar and Barakkas of Chicka Chowti were also there. I was ill then. I am so since 7 or 8 months. I am now very ill. I was not so till then. The whole village said that Thimmanna had been murdered and so I went to the spot. It was 1½ hour after sun ise that I heard this report. I was then going near the house of Gootti Thimma. There is a road going there.

Kotri is the daughter of Earakka. I saw her from a distance when I was going there.

When I went to the corpse there were near it Bharmappa, Talwari and Borkees of Chicka Chowti, Eara and other ryots, some 7, 8, 10 persons in all. No report was written out in my presence.

I don't recollect on what places on the head the wounds existed. All this is noted in the yadast. There was no cloth on the body. The private parts were naked. Below the head some cloth was lying as a pillow. I don't recollect having seen any other cloth there. There was blood on many spots there, also on the tank bund.

It does not appear to me that there was any foot mark of blood there. I did not see any foot print there. About a furlong beyond the body there was a cart. I took Dasi with me and inspected the cart. This was before the Daffadar's arrival. It was in a field. Baffaloes had been yoked to it. Hanumantha untied them. I think it was he and not Dasi who came with me to the cart. We brought the baffaloes from there to where the body was lying. We tied them on the tank bund. They were there till the evening. The animals were not at the cart when the Daffadar came. The Daffadar did not go near the cart at all. I did not see any other cart there.

I don't recollect if Sanna Thimma had come to see the body. Annappa Kachavi Lingappa and I each wrote a Mahazir then. It occupied us till sunset. I went to the place after breakfast. The Daffadar and Bharmappa did not leave the place till sunset for meals. Bharmappa did not go for meals in my presence.

When I went to the place I saw the accused persons in the village. They were seated on the pial of the house. From my house I went that way because there was *Gaddala* in the village. There are other ways to go to the tank from my house. I did not speak with the accused persons then. I obtained no information from them. Earakka and her people had already left home.

I did not see Jakka near the body. He was not there when the Daffadar came. At the inquest the Daffadar told me while we were writing the Mahazar to see that the accused persons did not leave the village. I sent the Talwar to look after them. The Daffadar did not tell me to send for them. I did not send for them. They were not present at the inquest. I don't recollect how much of the inquest report had been written when the Daffadar told me to look after the accused. Before then the Daffadar had examined Earakka and others orally.

I sent for the accused persons to the temple. I told the Talari to take them to the Temple. It was about 9 hours after sunrise then. I sent the Talari at once. He took another with him. I don't know if they took the accused persons to the temple. I don't know how long they stopped there. I came home that evening after sunset. Then the Talari came and asked me if he could let the accused persons go home for meals. I told him he might do so. I did not tell him to look after them in the night. I only said that he should see that they did not go away in the night. I also told him to tell them to come to the temple next morning. I sent for them there next morning. they stopped there till breakfast time. After taking meals they came there again. They went and came of their own accord. The Daffadar had put up

in the same temple. In the night he stopped in Annappa's house.

I sent for Jakka also to the temple. He and the accused persons stopped there till the Jamadar came. He came there by two hours after sunrise on the 7th June 903. Some 4, 5 hours afterwards the Jamadar took the accused persons to their house and searched it. He brought them back to the temple after search. They remained there all that day. That temple is Kallappa's temple. The Amildar arrived that night by about 9 P. M. Puttanne Gowda is my Dayadi. While I was in his house I heard of the Amildar's arrival and went and saw him. I did not tell the Amildar that the accused persons were ಮೂರು bad characters. I told the Amildar that they had been seized and kept.

I had reported to the Police against the accused persons of theft of paddy. I never reported anything against them in the matter of any bullock. Yes, I did report to the Amildar that the accused persons were bad characters and they had escaped punishment for want of evidence.

I know Santya. He was living in accused's house and other houses. I don't recollect if I examined him. Yes. I examined him a day or so before the Amildar took down my statement. I wanted to produce him before the Amildar but he absconded. He belonged to Mundagool of Canara District.

Bharmappa Gowda is my uncle. Eerakka cultivates his lands. Many others also cultivate his lands.

There is no dispute between me and the accused persons with reference to Kadegadde paddy field. Eedigar Ranga gave me his bamboo bush gratis. Accused persons did not quarrel with me about it.

In the matter of Kotree there have been disputes between Malla and accused. On the report of the accused Malla was fined Rs. 2 by the Guroo. Malla has come to Court. Mallari is Malla's brother. He has also come.

Note—When read out witness says that it was not Malla but Eerakka who was fined Rs 2. S. V. 19 8-03

I have no dealings with Runga nor with Hola Basya's father Kachiv Lingappa and accused persons are always quarreling but they are neither friends nor foes.

Re-examined Malla was in the Police. He was dismissed. He has come here to give petition in this matter.

Mukunda brought Santya before me.

It was in connection with accused persons having taken away the paddy stacked in deceased's Kana that I reported them to the Police.

The dead body was lying on a grassy plain in a rut made by wheels.

Read over in Kanarese and acknowledged to be correct.

19-8-03. S. VENKATAVARADAN IYENGAR,

Sessions Judge.

Deposition of Gonya 11th witness for prosecution.

Age—Does not know (looks 45).
Race—Wadda.
Religion—Hindu.

Father's name—Durganna.
Resident of—Hire Chowti.
Occupation—Land.

Duly affirmed.

I know the accused persons. Dodmane Thimma died on a Saturday. Early in the dawn that day I was going to bring thorns. I was taking a cart. My brother Basya was driving it. I was going in advance. Some 4 or 5 Baroos from my house there is Puttanna's Hukkal. When I was going there I heard the cry Iyya Iyo. This came from the direction of the tank. I told my brother Basya to stop the cart and went away to ascertain the cause of the cry. I told Basya to wait till I came. As I proceded further I had to attend calls of nature. After attending to them I went to the tank to wash. After washing I ascended the bund. Then I saw the accused persons standing on the opposite side of the bund. I called out to them who they were. They did not give me any reply but went away. I however identified them. As they were near me I recognized them. After they went away I descended the bund. In the place where they were standing was lying the body of Thimmanna. Life was extinct. I then went back to my cart. On the way I found Hole Basya's cart lying on its side with one wheel up. I reached my cart, set on it and went away with my brother Basya.

Cross-examined:—Wadder Thimma who was already examined is my brother. Basya has also come as a witness.

As I live in the same village I know Hole Basya's bullocks and recognized his cart. Thimmanna's body was lying 5 or 6 maroos from that cart. Manure was lying on the ground. I did not observe if there was any manure in the cart. I did not observe any manure at all there. The bullocks had not been unyoked. I did not see any basket or spade there. I mentioned this matter before the Amildar also. As likewise before the Magistrate at Soraba.

There was a cart then in 2nd accused's field. Thimmanna's field is far from the bund. I did not see in that direction then. If a man stands on the bund that field is visible.

The cart which was in 2nd accused's field had been yoked to a buffaloe and a bullock. The former was black. The latter was also black. I did not see any spade in that cart.

The cart in 2nd accused's field was a sling throw from where I stood. The tank has two Kodies. One on our village side and the other on the opposite side. I did not see any other cart there then. The sun had not yet arisen then. The morning had dawned. There was no darkness then.

Mullasabi's Hakkal is about ½ a mile from my village. That Hakkal is two slings throw from the place where the body was lying. My cart stopped at that Hakkal. The road to Hooke Gadde turns there. We wanted to go to the jungle at Huraly. The road there passes where the body was lying. I told my brother Basya to stop the cart at the Hokkal saying I would go and ascertain what the cry was. I did not stop my cart there to see if there was any other cart comming from the opposite direction or to see if the road was clear. If the cart had been driven I might have come faster to the spot. I did not feel the natural call previously. I did not recognize the voice of the cry. There are ponds near Mullasab's Hakkal. There was no water there in them. Iyanakatte is too far from there though nearer than Dasikatte. There was water in Iyankatte. Mullasabi's katte is behind the Hakkal. There was no water there in it. I sat down for natural calls after passing the Hakkal. I heard the cry once while going in front of the cart and again before I stopped the cart. When I was about to sit down for attending calls I heard a third cry. I did not stop there long—not even a quarter Galige. The place where

I sat down is 5 or 6 Baroos from where I left the cart. From there I walked to Dasyawadu.

When I saw the accused persons they were stooping down. I therefore called out who they were. They then stood up. I recognized them. I observed their faces then. They turned their face towards me and ran away. I did not call them by their names. I did not ask them what the cry 'Iyaappa.' was. I am on good terms with them. They did not say anything to me They did not say "what does it matter to you who we are". After they left it looked suspicious that they should be stooping there. So I went there. All the accused persons had a rag to their heads and a panche to their waists. They had no other clothing on. In the 1st accusd's hand there was a Kodli—axe, and in the hand of the 2nd a club. The club might have been ¾ of my baroo in length, *i. e.* my shoulder in length and 3 fingers in thickness. It was white and looked like bamboo stick. It did not seem to me as if it had knobs. The axe was a small one. Inclusive of the hole for the handle it was about 4 fingers in size. The handle was about my shoulder in length and 3 fingers in thickness. I did not make out what wood it was.

I did not observe any blood on the tank bund but in the place where the body was lying there was blood. Near the body was lying a small piece of cloth—a Panche The Langoti—cloth worn to cover the private parts was intact. The private parts were thus covered and not naked. There was no cloth below the head or near the head.

There was blood on the head. I saw 2 or 3 wounds there. I did not observe the wounds on the body because I got afraid and went away.

As soon as I went back to my cart I told Basya what all I had seen. We went to the Hoolgadde jungle. When we reached it the sun rose. That jungle is a man's call from Mullasabi's Hakkal.

We returned home 1½hours after sunrise. My younger brother Thimma was not at home then. Myself and Basya took breakfast by about 2 hours after sunrise. Some 3 hours afterwards Thimma came. I don't know where he had gone to. I did not tell him what I had seen. Nor did he tell me anything about the deceased's death.

I did not see Thimma (my brother) when I left home that morning. I was bringing thorns for two days previously. I did not tell anybody what I had seen that morning at the tank.

The Patel and I are on good terms, so also Erakka and I. When Basya and I were returning from the jungle I saw Erakka coming from the direction of the tank. People were coming with her. On seeing her I told her that I heard the cry of Iyyayyo, that I saw the accused persons bending over something by the bund of the tank, that I called to them, that they ran away, and that then I went down and found Thimma's body lying there. I did not however mention this to the Police, or Patel because before they came everybody knew what I had mentioned to Earakka.

After the Amildar came, the Talavar came and took me and my old father before him. Before I appeared in the presence of the Amildar he had questioned my father. The Amildar said that as the body was lying in the limits of my fields I must find out the muderer. I have told him all I knew. By that time the accused persons had been arrested and kept in the temple.

Chowti Puttannia was present when the Amildar took down my statement, so also was Sivappa Gowda. Many persons were present then. The whole temple was full of people then. Idon't recollect if Kachavi Linganna was or was not present then. It was dark then. A lamp had been lighted there.

I mentioned to the Amildar that I told the whole matter to Erakka. I did not tell the Amildar that because I was afraid of the accused persons I did not mention the matter to anybody and that somehow the Police came to know that I knew the matter. I did not mention to the Amildar that on my calling out to the accused persons that morning the 3rd accused replied to me "what does it matter to you who we are .

Re-examined—It is true I mentioned the matter to Eerakka when I was returning from the jungle. I don't recollect that 3rd accused gave me the above mentioned reply.

Read over in Canarese and acknowledged to be correct.

19-8-03 S VENKATAVANADAN IYENGAR.

Deposition of Basya 12th witness for Prosecution.

Age—Does not know—Looks 35 or 30.
Race—Wadda.
Religion—Hindu.
Father's name—Durganna.
Resident of—Hire Chowti.
Occupation—Agriculture.

Duly affirmed.

I know the accused persons. The deceased Thimma died about 3½ months ago, one Saturday. As the morning was still breaking, that morning myself and my elder brother Gonianna went out with our cart to go to the Hurali Jungle to bring thorns. I was driving the cart. My elder brother was seated on it. When we approached two slings throw from the village, *i. e.*, when we came to Mullasabi's Hukkal we heard the cry of Iyya Iyyo. The cry came from the direction of Dasyawaddu. I stopped the cart. My brother went on to see the matter. He told me to stop the cart saying that he would go and see what the cry was. He came back in a short time. He told me that Thimma's body was lying on the road and we must go another way.

The deceased and accused persons were quarrelling about a field.

Cross-examined.—We had brought thorns during the previous two days also. When we left home on Saturday morning it was dark yet. My elder brother Thimma was in the house then. He did not go out to bring the thorns.

The cry was loud. I identified the voice as that of the deceased. My brother Goniga got down the cart as soon as we heard the cry. Where I stopped the cart the road branches off to Hooligadde.

My brother did not run to the place of the cry. He went walking. After he got down from the cart I did not hear the cry. Before then I heard it twice. Desayi Waddoo is 3 slings throw from my village, *i. e.*, from where I stopped the cart. He came back in less than half an hour-in less than half a ghalige. The sun had not arisen yet. He only told me that Thimmia's body was lying there. He did not tell me anything else. I asked him what the cry was. He said "foolish boy keep quiet". He did not say anything about the accused persons.

We did not see Eerakka when we were returning from the jungle. When we reached home from the jungle Thimma had gone away somewhere

I did not tell any body that the body was lying there.

No re-examination.

Read over in Canarese and acknowledged to be correct.

19-8-03. S. VENKATAVARADAN IYENGAR.

Deposition of Mallari 13th witness for prosecution.

Age—about 28.
Race—Areru.
Religion—Hindu.
Father's name—Mallappa.
Resident of—Hire Chowti.
Occupation—Cultivation.

I know the accused persons and knew the deceased Thimmia. The latter died on a Saturday 2½ months ago. I heard the deceased urging his buffaloes and so I got up and went with my cart. His cart was going some 8 or 10 marroos from mine *i. e.*, in advance of mine. We went like this as far as Singaramma's house. The 3rd accused then brought his cart from his backyard. It came between my cart and deceased's. We went on like this up to Gonappana mata. There deceased's and 3rd accused's carts went on wards and I took a turn to my field. Their carts went towards Hurali.

The deceased and 1st accused were quarelling about a field. I don't know any body else being on bad terms with the deceased.

Cross-examined.—Sivappa Gowda is my Potel. I do any work he sets me to do.

All the 3 carts were loaded with manure. There are many paddy fields near Desayi Waddoo. All the ryots were taking manure to the fields at that time. The ryots generally do this very early in the morning.

There was no body else in the deceased's cart then. Nor in 3rd accused's cart.

Gonappana mata is about 2 furlongs from our village. I told the Committing Magistrate that that Mata is about 3 or 4 furlongs from the Desayi Waddoo.

The 3rd accused had covered himself with a *valli* at the time. I don't know and did not see what he had tied to his waist. I did not observe if he had tied any cloth to his head then. The *valli* covered his head. There was the usual whip in his hand. I did not see any basket in his cart. There was no basket in the deceased's cart. I did not see any spade in it.

The deceased had also covered himself with a *valli*. I did not see if he had tied a Panche to his waist or any cloth to his head. His head was not fully covered by the *valli*. It was half covered. I did not see if he had a turband on or if 3rd accused had a turband on.

After emptying my cart in my paddy field I went to the Bazaar in Vakkalagere. I returned home by about 4 or 5 hours after sunrise. Eerakka was then crying. A lot of persons were with her then. I don't know them. I said "what is this. We saw him go with his cart only this morning, this

has happened." I did not mention this to anybody in particular. Dasa and others 2 or 3 were seated on the Arali katte then. Eerakka came there then from the direction of the paddy fields. I did not tell her anything nor to the Potel, nor to any body in my house. 3 or 4 days afte wards the Amildar sent for me by the Talari and I deposed before him what I knew. Bharam ppa was present then. He wrote down my mark, *i. e.*, my name for my mark. This was in Thirumala Devar temple. It was midday then.

My brother Malla was in the Police Department then. He has come here. We all came in Eerakka's cart.

10 There was a dispute between me and the accused persons some 7 or 8 days before the said Saturday.

Re-examined. We have had no quarrel. Malla has come to present a petition to the Deputy Commissioner because he was dismissed.

Read over in Canarese and acknowledged to be correct.

19-8-03. S. VENKATAVARADAN IYENGAR.

Deposition of Thimma 14th witness for prosecution.

Age Does not know. Looks about 20.
Race—Gangadicar Vakkaliga.
Religion—Hindu.
20 Father's name—Dasanna.
Resident of—Hirechowti.
Occupation—Cultivation.

Duly affirmed.

The deceased Thimma died on a Saturday. I carted manure to my field that morning I carted one cart while it was still dark. I came home and filled the cart and drove it. By that time the morning dawned. When I returned from the field after emptying the cart there the sun had half arisen. While I was coming home from the field then, *i. e.*, on the occasion of my second trip I saw 1st accused coming from the direction of Mulla Sabi's 30 Hakkalu. He was bare handed then. He came running and went home. I asked him why he was running home in haste. He said he had business.

Subsequently I saw Eerakka near Gonappa's Mata. She was then going towards Desayi Waddoo.

Cross-examined.—It was in the *kodi* of the tank that I saw 1st accused. Mulla Sabi's Hakkal is beyond the *kodi* by about 10 *maroos*. There is no way by the Hakkal for carts to go to the village. There is only a foot path there.

The place where I saw 1st accused was half a furlong from Desayi Waddoo. I don't recollect if I said before the Magistrate that the distance was half a 40 mile. I may have said so. I may have also told him that it was when I went to the village I met Eerakka going crying to Desayi Waddu. I talked to her then and asked her why she was weeping. She replied that some body had beaten her son and killed him. I did not tell her that I saw 1st accused running home. I did not suspect anything when I saw him running away. I did not mention this matter to any body. The Talavar took me to the Amildar 3 or 4 days afterwards and I told him. The Amildar said "It seems you have seen 1st accused running home. Tell me what you

know." I replied "yes. I have seen it.

The 1st accused had worn a Dhotra then, *i. e.*, when I saw him running. He had tied a towel to his head. He had covered himself with a white *valli*. He was breathing hard then. Contra 11th

Puttanna was present when the Amildar took down my statement, so also Kachvi Lingappa. I don't recollect if Sivappa Gowda was present then.

My sister Deveeri is not excommunicated. Accused persons and I are of the same caste. They did not complaim aginst her. There was no Panchayati about her.

Sivappa Gowda is my Patel.

Re-examined.—I don't know how many furlongs make a mile. The *kodi* I referred to above is not that of Desayi Waddu but of Dod Kere. Dod Kere is nearer to our village than Desayi Waddu. There was no water in Dod Kere then.

The Amildar did not tell me what to state before him. I only told him what I actually saw.

Read over in Canarese and acknowledged to be correct.

19-8-03. S. VENKATAVARADAN IYENGAR.

Deposition of Bharamia 15th witness for prosecution.
Age—75.
Race—Lingayat.
Religion—Hindu.
Fathers name—Basappa Gowda.
Resident of—Chick Chowti.
Occupation—Patel and cultivation.

Duly affirmed.

Chicka Chowti is one mile from Hire Chowti. Dasa came and told me of his father's death. I sent a report at once to the station in Hire Chowti and another to the Amildar. (Mr. G. Row here asks the Court to Exhibit the report. Under proceeding of the Honorable Chief Court in Revision Case No. 53 of 96-7 the request is disallowed). The Daffedar came there at about 6 or 7 hours after sunrise. I was present at the Inquest. I signed the Inquest Mahazir. There were wounds on the head of the deceased. The right hand was broken. There were ecchymosed patches here and there on several parts of the body. There was blood on the stomach. So I did not observe any wound there. All the wounds were entered duly in the Mahazir prepared at the time. I don't recollect all marks of injury that I observed then. There were pools of blood on the tank bund and here and there. Near the body *i e*, an arms length from it there was a large pool. All these are mentioned in the Mahazar. Contra 11th

I know the accused persons. They and the accused were quarrelling with one another since 2 or 3 years. The father-in-law of the deceased and the 1st and 2nd accused are sons of the same father by different mothers. The said father-in-law was Dod Eera. At a partition of property he took one share and gave 1st and 2nd accused and another Kalveera 3 shares. This division took place 15,16 years ago. Dod Eara died some 3 years ago. The dispute between 1st and 2nd accused and the deceased is with reference to

Doddeera's property. Doddeera's portion of the family house is walled off from the 1st and 2nd accused's portion. All the accused persons live together. Kalveera lives with them. 1st accused's daughter is married to 3rd accused.

Cross-examined.—I was present at the partition. Sivappa Gowda, Annappa and Kachvi Linga were also present. No document was written out then. The Patta has not been made in the name of the 1st and 2nd accused yet. There was no talk about the Patta then.

Since 4 or 5 years there are money dealings between me and Eerakka. She owes me Rs. 150 yet. I have not lent her any money after this case arose. She cultivates my lands. The deceased too used to cultivate them. The accused persons don't cultivate my lands since 5 or 6 years. They gave up doing so themselves. I did not tell them to quit my lands. I don't know if Kunga owes me paddy. Yes. He owes seed paddy. I lent it to him 4 or 6 months ago. I did not lend it to him. My son must have lent it.

There are Kondajji Waddars in my village. The deceased did not complain against them of having taken away his paddy. They cultivate my lands.

I know Basappa Gowda's Kumari Hakkalu. The deceased was cultivating it. Bedar Thimma cultivates it now I don't know that there was any dispute between the Kondajji Waddars and the deceased about this land.

The deceased did not comlpain at the last Maharnavami that the Kondajji Waddars stole his ram.

The accused persons did not graze their cattle in my jungle without paying Hool Banni.

I keep a "To" Register. I never gave it to the Daffedar nor did he take it I never said to any body that I have lost it. I have got it. I did not enter in it the report I submitted in this case. I got it written out in the place where the body was lying and sent it on.

Dasi came and reported his father's death in my house. From there I took pen and ink. I forgot to take the "To" Register with me. On the top of the report I wrote "ಗ ಪಂಚಾ೫" but left it blank.

It was about two hours after sunrise when I left home that morning, when I came to the place where the body was lying. Eerakka was there but nobody else there.

Dasi told me that his father was lying killed. He did not say that any particular person or persons killed him. I did not see Jakka near the body, nor Sanna Thimma. Many people had assembled there. They came after I came there. Mukunda also did so.

Eerakka told me that the accused persons and Kalveera beat her son to death. She also told me that Mukunda and Jukka instigated the murder. She subsequently said that Kalveera was not present at the time. I think I scored out Kalveera's name from the report. Eerakka was positive that the three accused persons murdered her son.

By seeing the wound on the temple I reported that the deceased had been beaten by the butt end of the spade, *i.e.*, the hole wherein the handle is inserted, *i.e.*, the head of the spade.

When I first saw the dead body there was no piece of cloth on it. It was quite naked. The Langoti too was not there. There was no cloth below the head. Yes. There was one. It was a small Panche. There was no cloth

lying on the neighbourhood any where.

There were foot marks here and there in that place. contra 10th

A piece of cloth stained with blood— a panche— was lyintg about a Baroo from the body. After I came to the Place I got a cloth pu over the body to prevent flies from sitting on it. That was the cloth which was below the head. Eerakka covered it. We found no Langoti there. The body was quite naked when the Mahazir was held. After the Mahazir was written out the cloth was put on it.

I am an old man of over 70 and therefore I don't recollect matters well. The cloth below the head was one end there and another end a maroo off. 01
I don't recollect if the Langoti was lying at the head. I don't recollect if a blood stained cloth was on the body at the time of the Inquest.

I did not go for meals until the body was put into the cart and sent on to contra 7th
the Hospital. I stayed at the place till then from the time I came there in the morning. Sivappa Gowda was ill then. He did not come to the place at contra 10th
all. The Daffedar sent for him. He wrote a Yadi to him. Sivappa Gowda then came in a cart. It was 8 hours after sunrise then. The Mahazir was commenced after he came. It ended by sun set.

I don't recollect if I told the Amildar Jakkappa was at the dody when I first came there 02

After sending away the body I went home. There was no cart near the body. I saw a pair of buffaloes there. The boy Hannmantha brought them contra 10th
there before the Daffedar arrived. Sivappa Gowda was not present then. Hanumantha brought them from the direction of the fields. No manure was lying near the body.

Re-examined. The buffaloes were brought from a field 3 furlongs off. They had been tied to a cart there. The cart was visible. I saw it. It was near the shanbhag's land. On two sides of that land are cultivable lands and not on the other two sides. The cultivable lands are mine. The cart was standing in the land cultivated by Waddar Ganga. Beyond that is a mussalmans land which the deceased used to cultivate. To take manure to that land the 03
one cultivated by Ganga must be passed.

Sivappa Gowda got the buffaloes brought and tied on the bund. I first said he was not present then, because I had forgotten the matter.

My son Chenna Basia wrote both the reports.

In my report I have put down dots below Kalveera's name and then refered to the three accused persons. The dots denote that Kalveera's name is scored out.

At first the 1st accused had borrowed money from me. He discharged the debt 5 or 6 years ago. 04

By the Court. I don't know if Eerakka has cited me as her witness in the Munsiff's Court. Exhibit C is the report I sent to the Police Station.

Read over in Canarese acknowledged to be correct.

19-8-03. S. VENKATAVARADAN IYENGAR.

Depositon of Earakka 16th witness for prosecution.

Age—Says she does not know (Looks about 60)
Race – Gangadikar Vakkaliga.
Religion—Hindu.
Father's name – Dyava Naika.
Resident of—Here Chowti.
Occupation – Agriculture.

Duly affirmed.

Doddamane Thimma was my son. Doddeera was my brother. The 1st and 2nd accused are my brothers by my father's 2nd wife. Gangi is Doddeera's daughter. She was married to my son. 3rd accused is 1st accused's son-in-law.

Doddeera lived separately from the 1st and 2nd accused since about 20 years. oddeera died 5 years ago. I had possession,and enjoyment of Doddeera's Property after his death. My daughter-in-law is entitled to it. I hold possession for her.

Since 3 years there is enmity between me on one side and the accused persons Kalveera, Jakkiah and Mukunda. Kalveera is the brother of the 1st and 2nd accused. Jakiah is our caste man and lives in the house of the 1st and 2nd accused persons. At first he lived in a building in their back yard. Mukunda is a Police man and is of the Areru caste. The 1st accused has given him a house to occupy.

Holevars receive Aya from ryots. One Singri refused to give it to them. They assaulted him and spat him on the face. Singri,s brother is married to 2nd accused's daughter. On this account the village divided itself into two parties. Ten families took up the part of Singri and families of Linganna. I belong to the latter party. The caste Guru came and imposed a penalty of one Rupee on Singri. Kotri is a widowed daughter of mine. Singri's people complained to the Guru that she was keeping Police man Malla. I was acquitted of this matter but I gave the Gurna Kanike of Rupees 2. In that matter the 3rd accused gave evidence against me. This was 3 years ago. All the accused persons as also Jakya and Mukunda are in Singri's party. Enmity be gan since then.

There is a paddy field in our village known as Nadig Rama Row's Gadde. The 3rd accused and Kalaveera cultivate 3 shares of it. I cultivate a fourth share. Two years ago I threshed my paddy and heaped it to take it home. The 2nd and 3rd accused and Kalaveera prevented me from taking it. I comlained to the Patel Bhar mappa. He toled me he would decide the matter next morning as it was evening then. I went to the threshing floor and was watching the grain. The three accused persons and Kalveera came there in the dark with chopper, stick and rope. They began to load the paddy into bags Myself and my son who was with me then cried out for help. The 3 accused persons and Kalveera ran away. I complained to the Jamadar. He made me and the said persons to come to terms.

Two months afterwards 1st and 3rd accused persons as also Jakya, Mukunda, Ranga, Venkata, Kalveera and Thimma came to Kaday Gadde and Oorumandal Gadde, two paddy fields of Doddera and took away the paddy which was there. I complained against them to the Amildar of Soraba. All of them save Jakya and Mukunda were fined in the sum of Rs. 40. The date of this sentence was 21st February 1902 as per Exhibit D:- The Amildar told me to file a suit in the Munsiff's Court in my daughter-in-law's name for the value of paddy. That suit has been filed. It was to come on for hearing on Saturday. 8 days previously my son died. The suit is still pending.

Pattas of the lands are in Doddeera's name. After his death his daughter Gangi my daughter-in-law applied for the Patta being made out in her name. The 2nd accused has applied that it should be made out in his name. There

was an inquiry in this matter two years ago It has not been disposed of as yet. The 1st accused had filed a complaint against me. My daughter and my daughter-in-law some two years ago. I also complained then agains the wife of the 2nd accused and the daughter of the 1st accused. The Patel Sivappa Gowda and Shanbhog Puttappa advised us not to quarrel and so both the complaints were compromised.

The 2nd accused assaulted my grandson in the threshing floor in the harvest before last. We complained to the Jamadar and then to the Amildar. The Amildar compromised it. D (1) is copy of order in this matter. It is dated 11th January 1903.

I know Fakeera. I don't know him. I have not seen him. One day I had been to the house of Lingappa Patel of Yannekoppa. His females told me that my step brothers were going to make Mata. I don't know that Fakeera is a witchcraft. I told Lingappa what his females told me. This was 8 days before my son was murdered.

On Friday night my son filled manure into the cart. Early next morning while it was some what dark yet he took the cart to go to the paddy field. The accused persons live in the next house. Both houses were originally one house. It has two doors now. The 1s accused was sleeping on his Jagali. On hearing my son go with his cart the 1st accused got up and woke the 3rd. The 1st and 3rd accused then went with their cart.

Sometime afterwards my daughter-in-law who had gone out to attend calls of nature came and told me that she heard some body cry, "They are beating me. I die, come soon". She came running to me and told me this.

She further said that she felt uneasy in the matter and taking her sons she went away. I also followed them a short distance behind.

Near Oorumundina Gadde there is Hakkal. When I came there the 1st accused came running from the opposite direction. I did not observe anything in his hand then. His Valli was on his shoulder. One end of it was under his arm pit. I passed on and came to Eedigar Waddu. The 2nd and 3rd accused came there on a cart. Joga the father-in-law of the 1st accused was coming behind me.

He asked the 2nd accused as to what was the cry. The 2nd accused replied from the cart" Somebody has struck down Thimma. His body is lying near Desayi Waddu. Life is extinct". I was grief stricken. I went on weeping and crying to Desayi Waddu. Jagappa died about 15 days ago. On reaching Desayi Waddu I found my son's body lying in the ~~mid~~-cart-rut quite naked. There were many cuts on the head. One on the temple. There was a wound on the nose. The arm was broken There was a wound on the abdomen. Near the body was a pool of blood. Also on the bund of the tank in many places.

I sent my grandson Dasi to bring the Patel of Chicka Chowti.

The Patel, Police and many others came. A Mahazir was made The Police took away the body. I suspected Mukunda and Jakya also. They were always giving me greater trouble than accused persons.

Cross-examined. We have four paddy fields. Since 15 days previously my son was taking the manure to the fields. Accused persons began to do so 8 days previously. All the ryots used to go then early in the morning to their fields. That was the manuring season.

There are many Paddy fields near Desayi Waddu. The accused persons

have an arecanut garden. I have also got one. My son used to go there occasionally. We had a sugar cane garden. My son used to go there at nights with our servant Eera but used not to sleep there. He never went out alone at nights.

When I reached Desayi Waddu that morning my daughter-in-law and her sons were near the body. I did not pay attention as to who else were there. Near the feet was lying the Langoti. Below the head was a Panche. This cloth was not folded and kept there. The whole of it was below the head. Half of it was below the body and the other half below the head.

Bharamappa Gowda of Chicka Chowti asked me to cover up the body with that cloth to prevent crows attacking it. I covered it up. The face was also covered. The Langoti was lying where it was.

The Police came there afterwards. I don't recollect if Sivappa Gowda came before or after the Police. However he too came there. I mentioned to the Patel that I suspected Kalaveera also but subsequently said that there was nothing against him.

I did not see Jakya at all that day. Gangadikar Thimma did not come there that day.

Some 3 Baroos from where the body was lying was a Bata tree. I don't know if there was blood at the foot of that tree.

The blood on the tank bund was in a streak as if the body had been dragged there.

Singrappa's house is at the village gate, *i. e.*, about 50 yards from the gate. The Hakkal is 2 or 3 maroos from his door. I did not see anybody else when I went to see the body. Yes. I saw Gonya. He was driving a cart of thorns. I don't recollect whom all I saw when going to Desya Waddu. After seeing the body I returned home. When going home I attended calls of nature near Bannimadi Katte. I don't recollect if it was after attending calls I saw Gonya. It was 3 hours after sunrise then. Owing to grief I did not stop at any one place then. I don't recollect if I washed at that *Katte* then. I don't recollect if there was water there then.

I saw 2nd and 3rd accused in the cart when they came in front of Hole Basya's backyard, *i. e.*, at the village gate.

When I left home that morning my daughter-in-law and her sons were about 100 yards in advance of me.

My ram had strayed. The Kondajji Waddars had tied it up in their house. My son did not watch that house that night. I had promised to give my Kumari Hakkal to the Kondajji Waddars. No. I don't know this. Singri, Basya, and Thimma cultivate it now. I don't ~~no~~ know that there was a fight in this matter between my son and the Kondajji Waddars. There was no fight. Somebody took some paddy from my stack. I don't know who took it. I did not complain that the Kondajji Waddars took it.

I don't recollect what was the time when I sent Dasi to fetch the Patel. Malla is the brother of Mallari.

I have engaged counsel on my behalf. Nobody told me that there was a Pleader on behalf of Government. Shivappa Gowda did not give me money for paying the Lawyer. I have myself lent him ~~Rs~~ 4. I have not borrowed money from Barmappa Gowda. My brother owed him money. It is still due since 10 years. There is a balance of ~~Rs~~ 150 yet due to him.

Re-examined:- Bharmappa Gowda has given his land to us to cultivate. After my son's death I asked him to take it back. He refused.

Read over in Canarese and acknowledged to be correct.

20-8-1903 S. VENKATAVARADAN IYENGAR.

Deposition of Gangavva 17th witness for prosecution.

Age—Says she does not know (looks 30-35)
Race—Gangadikar Vakkaligar.
Religion—Hindu.
Father's name—Doddeeranna.
Resident of—Hire Chowti.
Occupation—Agriculture.

Duly affirmed.

My husband Thimma left home on Saturday morning with his manure cart very early. Sometime afterwards I went to the backyard. While there I heard somebody cry out. It struck me that the voice was my husband's. I attended calls of nature and came home. I felt very uneasy. I took my children Dasi and Hanumantha with me and went in the cart track to Desayi Waddu. I went in that direction because my husband had taken the cart to the field there. On my way I met 2nd and 3rd accused. They came there in a cart. I met them near Ganappana Matha. I passed on and near Hakkala Hali I met the 1st accused. He came running. I went on. Near Desayi Waddoo my husband was lying dead. There were wounds on his body. There was blood on his face. There is enmity between the accused and ourselves in the matter of my father's property. I have filed a suit against them in the Munsiff's Court.

Cross-examined:—I don't recollect who are the witnesses summoned for me in that suit. My husband had done the needful in that matter.

When, in the backyard, the cry I heard was " Iyyayyo. They are beating". I don't recollect if the cry was " come soon ". I heard the cry twice. It was a loud cry. I did not report the cry to my mother-in-law. She was at home when I left it with my sons.

People were coming and going in the road while I was going, but I did not notice them. My sons came with me. Somebody was standing at the hedge near the Hakkal but I did not pay attention to him and went on. My sons came with me in front or behind. I did not speak with anybody on the road. My sons stopped with some two persons there, but I did not see if they talked with them. One of the said two persons seemed to be Heggade Thimma.

I saw 1st accused while I was at a distance of about 150 yards from him.

I did not pay attention as to who followed me then. I don't know at what distance behind me my brother-in-law came.

I did not notice what clothing 2nd and 3rd accused had on them when they drove past me in their cart.

No re-examination.

Read over in Canarese and acknowledged to be correct.

20-8-1903 S. VENKATAVARADAN IYENGAR.

Deposit on of Dasi 18th witness for prosecution.

Age - Does not know (looks about 18)
Race—Gangadikar Vakkaliga.
Religion Hindu.
Father's name Thimmanna.
Resident of—Hire Chowti.
Occupation—Agriculture.

Duly affirmed.

I was in my village on the day of my father's death. That day was Saturday. My father left home early that morning with the manure cart. After he went away I washed face and hands and took breakfast. Just then my mother came from the backyard and saying, she heard some cry, took me and my brother and went towards the paddy field. While passing the Hakkal belonging to Heggadera Thimmanna he saw me and called me. He told me that the Eadigar boy gave some information.

Q What did he say that the Eadigar boy told him? Disallowed. That boy's name is Hola Basya. I went on. Near Ganappana Matha I saw the 2nd and 3rd accused coming in a cart. Near Hakkal Hali I met 1st accused. He came running from the opposite direction. We passed on and found my father's body lying in the cart rut behind the tank bund, *i. e.*, Desayi Waddu. Life was extinct. There were wounds on his head. There was blood on his face and chest. There were bruises all over the body. A hand was broken.

There were disputes between us and the accused persons.

My father's cart was in the paddy field then.

I was present at the inquest. The Daffedar examined me then. I don't recollect if I told him what Heggadera Thimmanna told me. Note.—Mr. G. Row wants to prove what the witness told the Daffedar as what Heggadera Thimmanna mentioned to him as having heard from Hola Basya. That is no legal evidence against the accused and the question is therefore disallowed.

20-8-03 S. V.

Q. Did you mention the names of Hola Basya and Heggadere Timmanna to the Daffedar? Answer.—I don't recollect. Note.—Mr. G. Row wants the Court to allow the witness to refresh his memory by the statement recorded by the Daffedar at the inquest. Mr. G. Achar objects. The question as to whether or not the witness gave any information to the Daffedar seems to be material though that information is not evidence against the accused. So the witness is allowed to refresh his memory. Answer. The Daffedar took down my statement. I signed it. I mentioned to the Daffedar what information Waddar Thimma gave. Heggadera Thimmanna and Waddar Thimma are the same.

Cross-examined.—I mentioned the matter to the Amildar but I don't recollect if I did so to the Daffedar.

Q. Did Waddar Thimma tell you that Hola Basya knows something in the matter of your father's death or that Hola Basya mentioned the names of the accused persons as being concerned in the matter of your father's death? The Court does not consider this question to be relavent evidence in the Case and disallows it.

Cross-examination continued.—I met 1st accused about 150 yards from the body. I did not see what he had in his hand then. When Waddar

Thimma called me. I stood at the hedge. My brother Hanumantha and my mother were then some 5 or 6 maroos in advance of me. I was not weeping then. Waddar Thimma did not ask me where I was going. There was nobody with him then. He did not call Hanumantha.

I did not observe what clothing the 2nd and 3rd accused had on them when they were in the cart.

Before the Daffedar came, Sivappa Gowda and my brother went to the cart in our field and brought the buffaloes from there. I did not go there. Sivappa Gowda came there after Bharamappa Gowda came. After Sivappa Gowda came Bharamappa wrote the report. I was engaged in crying and weeping. I don't know who dictated the report. I don't recollect if I told Sivappa or Bharamappa what Waddar Thimma told me.

I went to Bharamappa's house and brought him from there. I did not tell him there what Waddar Thimma told me.

Re-examined.—Bharamappa questioned my mother and not me before writing the report. By mother I mean Earakka. I call her mother, Amma.

Read over in Canarese and acknowledged to be correct.

20-8-03. S. VENKATAVARADAN IYENGAR.

Deposition of Seenappa, 19th witness for prosecution.

Age—53.
Race—Vaishnava Brahmin.
Religion—Hindu.
Father's name—Thimmannachar.
Resident of—Annavatty.
Occupation—Police Daffedar No 403.

Duly affirmed.

I am somewhat hard of hearing I can hear by the right ear. I was in Anvatty station on the 6th June last. I received report in this case at about 11 A. M. I reached Desayi Waddu by about 12. I held the inquest. There is a cart track behind the bund of the tank. In the cart rut the body was lying. I have described the wounds and other marks in the mahazir which was prepared then.

No: 1—On the forehead was a wound skin deep of the size of a tamarind seed (stone).

No: 2—To the left of that wound and above it, *i. e.*, on the top of the head was another wound 3 inches long ½ inch broad. I did not measure the depth.

No: 3—Above No: 2 another wound 2 inches long, ½ inch broad and ¼ inch deep.

No: 4—Near No 3 another wound skin deep about 1½ inches long.

No: 5—On the middle top of the head a wound 3 inches long, ½ inch broad, and ¼ inch deep.

No: 6—On the right side of the head, one inch long, skin deep.

No. 7—On the right forehead 3 pie piece in size. This was dry wound. The skin had peeled off.

No. 8—On the nose skin peeled off and dry.

No. 9—On the left cheek and on the left temple skin peeled off to the size of a pie and dry.

No. 10. On the left chin wound 1 inch long. Both the cheeks were swollen.

The bone above the right hand had been fractured and the place there was swollen.

On the left side of the body there were marks of two blows. In many places on the body there were ecchymosed marks. There were dark patches between the nipple and the navel. I did not observe if the skin had been peeled off.

Both in the rut where the body was lying as also in the corresponding rut there were foot prints and marks of a struggle.

The ground was soaked in blood in the place where the head of the body was. Underneath the head was the Langoti and this was stained with blood. On the body there was a Panche lying.

There were blood stains on the tank bund and at a place 6 yards from where the body lay. These stains were dry.

I examined Eerakka, Gangavva, Dasi, and Hanumantha then. The Patel and Constable Mukunda, besides Waddars and Thalwars, were near the body when I arrived there. I don't know the names of the Waddars. I don't know if they were or were not Konlajji Woddars.

I made over the body to Police Constable Shek Ahamed to take it to the Hospital.

The Jamadar came there next morning. He searched the bodies of the accused and their houses, as also the houses of Mukunda and Jakka.

Cloths Nos. 1, 4, and 5 were found in the house of the 1st accused.

Cloth No. 6 was on 1st accused's head

Cloth No. 7 was the Dhotra he was wearing at the time.

Cloth No. 8 was on 3rd accused's head.

I don't recollect where cloth No. 2 was found. Club No. 3 was found in 1st accused's house behind the shutter of the outer door.

Cross-examined:—When I arrived on the spot Bharmappa, Woddars, and Mukunda were there. The relations of the deceased were not there. After I came there I sent Shek Ahamed to bring the Panchayatdars and the said relations. I don't recollect if I wrote a yadi to the Patel to bring Panchayatdars. I might have sent a chit. An hour afterwards Panchayatdars, relations of the deceased and others came. Sivappa Gowda also came. He, did not come in a cart but walking. It was about 1 P. M. when I began writing the report. I did not take any pencil notes. The body was lying face downwards. I got the relations to turn over the body. When I came to the spot the body was not quite covered over by a cloth. Over the back and thighs a piece of cloth was lying.

The inquest ended before it became dark. I don't recollect the name of the person who wrote the report then.

There was no manure in the neighbourhood of the body. 2 or 3 copies of the Inquest report were written out there.

I did not find any trace of the body having been dragged down from the top of the bund. The body was in the rut near the bund and not in the other rut. contin 16

The bund might slope towards the Kodi. Yes. It does slope there. The body was not in the slope, but in the cart track. One has to ascend the Kodi slope after passing the body to go in that road. There was no cart near the body, nor in any neighbourhood there. On the bund there were two buffaloes then. But I don't recollect if they were brought there before or after I came. I did not see from where they were brought. The matter of these animals was not recorded in the Mahazir. I did not see any basket there.

I am not able to say whose handwriting the Mahazir is. I am not able to say if Sivappa Gowda wrote it. I gave it to the Jamadar. I sent the other copy to the Head office next day. I sent the third with the Constable to the Hospital Assistant. I fowarded the copy to the Head Office through the Jamadar after his arrival.

The Inspector also visited the place but I don't recollect if it was Sunday or Monday then. I don't know where the Inspector was on the 10th June last. The Amildar was in Hire Chowti that day. I was not there that day. Question.—What day is entered on the Diary by the Inspector as date of receipt thereof by him and the Amildar and Sub-Divison Officer? Disallowed

Examination continued.—I am not able to say how far the body was lying from Hire Chowti. How can I mention the distance while there are no mile or furlong stones there. I think the distance is 3 or 4 furlongs.

When the Jamadar arrived the accused persons were in the temple. It is in the middle of the village. I don't know the name of the Deity. I told the Patel to have an eye upon them. The Jamedar put up in that temple. It was after 11 A. M. and before 12 that the accused persons were taken to their houses from the temple. The 1st accused was present at the search. I don't know where the 2nd and 3rd as likewise Jakka were at the search. I don't know if 1st accused's signature was taken to the Mahazir then. 1st accused's person was searched in the temple but I can't say if it was before or after the houses were searched. The bodies of the 2nd and 3rd accused were searched in the temple but I don't recollect if it was before or after the houses were searched.

It was about 5 P. M. when the search in the houses ended. No other house was searched.

Re-examined:- I am not able now to say whether the dead body was lying face downwards or upwards. By refreshing my recollection from the Inquest report I say it was lying face upwards. The buffaloes had nothing to do with the Inquest and I did not mention them in the Inquest report.

Read over in Canarese and acknowledged to be correct.

20-8-1903 S. VENKATAVARADAN IYENGAR.

Deposition of Hutcha Row 20th witness for prosecution.
Age—38.

Race—Vaishnava Brahmin.
Religion—Hindu.
Father's name—Ganesa Row.
Resident of—Anavatty.
Occupation—Police Jamadar.

Duly affirmed.

I received the first information in this case at Kuppa Gadde at about 5 P. M. on the 6th June 1903. I arrived at Hire Chowti at 7 A. M. next day. I inspected the place where the body was stated to have been found. The three accused persons and one Jakkya were by that time in the temple of Kallappa Devaru. I searched their houses first. The search was commenced after 11 A. M. and ended at 5 P. M. All these houses form one house and belong to the 1st accused.

Cloths articles Nos. 1 and 4 were found in the house of the 1st accused, as No. 5. No other cloth was found in that house *i. e.* suspicious cloths.

Cloths Nos. 6 and 7 were on 1st accused's person.

Cloth No. 8 on 3rd accused's head.

Club No. 3 was found in 1st accused's house.

I don't recollect where cloth No 2 was found. As all these cloths looked suspicious I seized them, as also the club.

The Work Inspector visited the village on the 8th or 9th idem. The witness pointed out to him in the presence of myself and the Amildar the various places they referred to in their evidence. The Work Inspector took notes and prepared a plan. He took measurements on the 11th idem and prepared the plan the same day. I compared it with his notes and signed it. Exhibit E is that plan.

Cross-examined:- I reported the accused as arrested on the evening of the 7th, *i. e.*, at 7 P. M. They were in the Kallappa temple then. I don't know since how long previously they were there. I did not enquire about it.

Note:- The witness speaks in an offended tone and he is told that there is no reason to be angry. Mr. G Achar will also address the witness in less loud tone.

There is no rule requiring that the hour of the search should be noted down in the Mahazir. When I took the 1st accused from the temple the other accused were there. 1st accused's signatnre was not taken to Mahazir. Kacha-vi Linganna, Patel Sivappa, and Patel Bharamaiya, were present at the search.

In the 1st accused's house there were choppers, axes, ploughshears, and the like. Question. How many axes there were there? Answer. One was small and the other large. I did not take them. There were no stains on them.

The cloths I seized were amongst other cloths on a bamboo to the left of the entrance.

After the houses were searched the person of the accused was searched. That was done in the Kallappa temple. Sivappa Gowda, Bharmappa, and Kachavi Lingappa were present then. There was no bleod stain on the bodies of the accused persons. This search ended by 7 P. M.

I was present when the Amildar examined witnesses next day. I wrote down some of the depositions. I don't recollect if I made any enquiry about Woddar Thimma on the morning of the 8th. I enquired however where Hola

Basaya had gone away. I did not go to his house. I did not enquire about Ranga, nor about Woddar Ganga.

The places were not pointed out to the Work Inspector on the 8th, 9th, or 10th. It was about 9 or 10 A. M. on the 11th that the places were pointed out to him. Witnesses and I went then. The Amildar ordered that they should all come. A village servant fetched them. Before then the witnesses had not pointed out the places. The Work Inspector was with us on the 8th and 9th.

I wrote down the depositions of Dasi, Gangamma, Earakka, and Hanumantha on the 8th; of Venkatappa, Gonya, Basya, Thimma and Mallari on the 9th; of Hole Basaya and Ranga on the 10th and of Veerappa Gowda, Mukunda, Waddar Thimma, Patail Lingappa and Fakeera on the 12th. The deposition of Gonya examined on the 14th was also recorded by me. All the statements are in my handwriting and none in the Amildar's. The statement of Woddar Basya is not signed by the Amildar though it is recorded that it was taken before him. Venkatappa's statement is also not signed by the Amildar.

No Re-examination.

Read over in Canarese and acknowledged to be correct.

20-8-1903. S. VENKATAVARADAN IYENGAR

IN THE COURT OF SESSIONS, SHIMOGA DIVISION.

Shimoga Sessions case No. 8 of 1903—904.

Complainant.		Accused.
Government.	Vs.	Sanna Eara and other

List of Exhibits filed in this case.

A.	*Post mortem* report dated 8-6-1903.	
B. B(1)	Portions of deposition of Fakeera 3rd witness before the Committing Magistrate as 10th witness dated 23-6-1903.	2.
B(2)	The whole deposition of Do.	1.
C.	Potail's report dated 6-6-1903.	1.
D.	Copy of judgment in Criminal Case No. 65 of 1901-02 on the file of the Sorab Amildar Magistrate's Court dated 21-2-02.	4.
D(1)	Order of the Sorab Amildar Magistrate dated 11th January 1903.	1.
E.	Plan.	1.
F. F(1). F(2).	Statements of accused before the Committing Magistrate.	3.

Total fards 14 fourteen.

C. Sesha Iyengar,
Sheristadar.

EXHIBIT A.

MYSORE MEDICAL DEPARTMENT.

FORM No. XVII – POST MORTEM REPORT.

Station— Sorab Date – 8th June 1903.

Name.	Sex.	Age.	Caste	Whence brought, village, tannah.	Date and hour of Despatch.	Receipt.	Examination
Thimmah	Male.	45 years.	Gangadakar	Here Chowti		7-6-03. 2 P. M.	7-6 03. 2-30 P. M.

Information furnished by Police.

That the death of the deceased might have been caused by external violence.

N. B.—Observe the state of all the organs and when no disease or injury is found write "Healthy."

(I) External Appearance.

(1) Condition of subject, stout, emaciated, decomposed, &c.	(2) Wounds: position, size, character.	(3) Bruises: position, size, nature.	(4) Mark of ligature on neck, dissection &c.
Well nourished. On turning the body to one side, blood runs out from the nostrils. Right and left side of back from the nape of the neck up to the waist, and the right buttock ecchymosed. The right and left sides from the auxilla up to the groin ecchymosed. Posterior parts of both thighs and calves of both legs ecchymosed. Skin on the left side from below the nipple up to the navel peeled off 4 inches in breadth. Face and neck swollen. There are clots of bloodon nose and left side of face. Both temples swollen. Outer & upper part of thighs echymosed 1½ inch long and 1¼ inch broad.	(1) One incised wound on the left side of head 2½ inches above left ear, 2⅓ inches long, ¼ inch broad and scalp deep. 2) Another incised wound on the left side of head ¼ inch above the 1st wound 2 inches long ¼ inch broad, and scalp deep. (3) Another incised wound ¼ inch above the 2nd wound 1½ inchlong, 1/4 inch broad and scalp deep. (4) One incised wound on the right side of head 3 inches above the right ear 3¼ inches long 1/4 inch broad and scalp deep. (5) One incised wound on the top of head 3⅓ inches long, ½ inch broad and scalp deep. (6) 1/2 inch from the above (5th wound) a linear wound 1/2 inch long and superficial. (7) Wound 1/2 inch above the forehead about the size of a pie. (8) Incised wound 1¼ inch long, ⅛ inch broad and skin deep on the left chin. The edges of all the wounds are averted and contain clots of blood in the wounds.	Left side of back bruised in 6 places each about the size of a split bean 8 linear on the right, and 6 linear abrasions on the left side of back varying from 2 to 4 inches in length. Abrasion above the forehead on right side about 1/4 anna piece in size. Abrasion about a 2 anna piece in size on right forearm about its middle.	Nil.

(II) Cranium and Spinal Canal.

(1) Scalp, Skull and vertebræ.	(2) Membranes.	(3) Brain and spinal cord.
Scalp congested. Skull intact. 1st and 2nd vertebræ not fractured.	Congested.	Blood is effused on the surface of the Brain. Upperpart of the spinal cord healthy.

NOTE.—The spinal canal need not be examined unless any indication of disease or injury exists.

(III) Thorax.

(1) Walls, ribs and cartilages.	(2) Pleuræ.	(3) Larynx and trachea.	(4) Right lung.	(5) Left lung.	(6) Pericardium.	(7) Heart.	(8) Large vessels.
Walls ecchymosed.	Congested.	Congested.	Congested.	Congested.	Congested.	Congested. Empty.	Congested, dark blood.

(IV) Abdomen.

(1) Walls.	(2) Peritoneum	(3) Mouth, pharynx and œsophagus.	(4) Stomach and its contents.	(5) Small intestine and its contents.	(6) Large intestine and its contents.	(7) Liver.	(8) Spleen.
Ecchymosed. Abdominal cavity contained 1 1/2 pint of dark blood.	Congested.	Mouth open. Pharynx and œsophagus congested.	Stomach empty. Congested	Congested.	Congested.	Congested.	Normal in size. External surface ruptured, 2¼ inches long and 1/4 inch broad

(V) Genito Urinary Organs.

(1) Kidneys.	(2) Bladder.	(3) Organs of generation-external and internal
Congested.	Empty.	Healthy.

(VI) Muscles, Bones and Joints.

(1) Injury.	(2) Disease or deformity.	(3) Fracture.	(4) Dislocation.
On dissection the muscles from the 7th to 2 inches below the 12th left ribo were highly congeted.	Nil.	Shafts of right ulna and right radius fracture.	Nil

More detailed description of injury or disease.

Effusion of blood on the surface of the brain, rupture of the Spleen and congestion of all the abdominal viscera.

Opinion as to cause of death.

Death due to compression of brain and rupture of the Spleen. The wounds on the head appear to have been caused by a sharp edged instrument. Rupture of the spleen due to blows on the back and abdomen with a blunt weapon (over the region of the spleen)

Sorab,
8th June 1903.

M. A. Vidwatsiromni Pillay
1st Class Hospital Assistant.

Concur.

11-6-03.

B. Srinivasa Char,
Assistant Surgeon.

Forwarded to the Amildar of Sorab Taluk for needful.

14-6-03

G. Haudin,
Superintendent of Police
Shimoga District

EXHIBIT B 2.

Deposition of Nigadi Fakira 10th witness for prosecution.

Age—28.
Race—Panchamasale Sivachar.
Religion—Hindu.
Father's name—Eerappa.
Resident of—Thevaretippa.
Occupation—Cooly &c.

It is not explained how the prosecution came to know that 2nd accused had gone to this village.

Solemnly affirmed.

Of the accused now in Court I know the 2nd accused Chenna. I stayed in Yenne Koppa for about 8 days, about a fortnight ago. I live by cooly and also give ashes &c with Manthras to children &c. Chenna had come to me saying that his child was ill and wanting a "manthra chit." I gave him a chit. *He then asked me if I knew the work of witchcraft* (ಮಾಟ) *By "mati" is meant the bringing of illness or death to a person by means of Mantras.* I said I did not know about "ಮಾಟ". He did not tell me with regard to whom he asked me about "ಮಾಟ". On my reply he went away. *Some 5 or 6 days afterwards Police Constable Mukunda had come to me. I was in Eerappa Gowda's house. He wanted a Mantra chit for a child that was ill, and I asked him to come to where I was, but he asked me to go out with him.* I went to him. He asked me if Chenna (2nd accused) had been to me the previous day. I said that he had not. He then went away. I did not give him any Mantra chit. Mukunda did not talk to me anything about *mati*. That was the first day I saw Mukunda. I learnt his name afterwards. I first made Chenna's acquaintance when he had come for the chit and I learnt his name only then. The Police examined me on the Friday before last. The Yenne Koppa Gowda got angry with me for letting Chowti people to come to me and that people were complaining aginst me and said that I should go out of the village. I left the village and went to Thevaretippa. I am not married. My native place is in Nigadi in Dharwar District. For the past 15 or 16 years I was earning my livelihood by playing "Rajanatta." I abandoned that profession last year and live by cooly. I own no lands or house. There are none of my relations in these parts.

Exhibit B.

Exhibit B1.

Cross-examination.—Reserved.

Read over in Kanarese and admitted correct.

23-6-03. C. S. BALASUNDARAM IYAR.

EXHIBIT C.

To

The Police Station

Chowti.

Report dated 6th June 1903, submitted by the Patel of Chikka Chowti runs as follows:—

One Chowti Dodda Mane Thimmayya was lying dead (on the road formed by) the cart track, higher up the "Yemanaboi" wet land below

"Desaivadina tank" of the said village (Chowti). The head (of the corpse) was towards west and its legs towards the east. There are five wounds on its head. There are two wounds on the left temple and there is swelling on the right hand. The deceased was in this state. On questioning the mother of the deceased *viz*, Eerakka, she said that Mukunda and Jekkay of Chowti Police Station caused, D. Sannaveera, Channa, and Advi to strike the deceased.

6-6-1903. (Sd.) PATEL BHARAMAYYA

6-6-1903.

As soon as I received the report of the Patel of Chikkavatti, this morning I went to the spot at once and examined. The said Thimma is lying dead. There are bloodstains in places near the spot where the dead body is lying. The cloth of the deceased is bloodstained. I remain near the said corpse.

(Sd.) MUKUNDA.

Dated 6-6-1903. at 11 A. M.

Statement of the Thalvar of Chikachowti:—I have seen the dead body that was lying. "I have brought the report given to me by the Patel." It appears from this report that the offence falling under section 302 I. P. C. has been committed. An express message is at once sent to the higher officer.* *

(Sd)

EXHIBIT D.

IN THE COURT OF THE 3RD CLASS MAGISTRATE, SAGAR.

21-2-02

Criminal Case No. 65 of 1901-02.

Seshagiri Row

Complainant.	Vs.	Accused.
Irakka By Pleaders Messrs. Shama Row and T. Krishna Row.		1. Sanna Veera. 2. Kara Veera. 3. Adavi. 4. Runga. 5. Thimma. 6. Venkata.

JUDGMENT,

The complainant filed a petition in this Court alleging that she had reaped and stacked the produce raised by her in the wet land in her possession and enjoyment and situate in Hirichavati Village, and that on or about 14th December 1901, the accused without the consent of the complainant harvested the stack and carried away the paddy and thereby committed an offence falling under section 379 I.P.C.

The following witnesses were examined for Prosecution.

1. Complainant Eeerakka, 2. Patel Sivappa Gowda, 3. Madarsha 4. Shanbogue Gumasta Purnachar, 5. Kempanna.

The following Exhibits were filed:—

A. Receipt book for payment of assessment on the land in dispute.

The charge framed is as follows:—

I, 3rd Class Magistrate, do hereby charge you accused persons as follows:—

"That you on or about 14th or 15th December 1901, took away with dishonest intention and without the complainant's consent, the produce which the complainant had raised in the wet land in her possession and enjoyment and situate in Chavati Village, and which she had reaped and stacked, and that thereby you committed an offence punishable under Section. 379 of the I. P. Code and within my cognizance.

And I hereby direct that you be tried by me, a 3rd Class Magistrate, for the said offence."

The accused persons denied the charge and have put in their written statements, which run as follows:—

"We did not commit the offence referred to by the complainant. The land referred to by the complainant is our ancestral property and our undivided family property. The complainant, Patel Sivappa Gowda, Kempanna, Madar Shah and others attempted to cause it to be given by force to the complainant. As that was not possible, they have brought this false complaint. There has never been any division between our elder brother and ourselves (1st and 2nd accused). It is not true that we removed the paddy on Saturday or Sunday, as stated by the complainant.

Before the time mentioned in the complaint, we had harvested and kept the paddy which we had raised in our wet field.

Patel Kempanna, Madar Shah and others came on behalf of the complainant and caused a document to be executed by us to the effect that (we) should deliver up the paddy of the said field whenever demanded and so on, and that we should keep it in our own possession. And (they) also, got our signature thereto. This was on 11-12--1901. The 5th and 6th accused persons have been made accused persons because these would come as witnesses. The 5th and 6th accused persons did not commit the crime."

The following witnesses were examined for defence:—

1. Police constable Mukunda, 2. Bista, 3. Chikkappa, 4. VeeraBhadra 5. Singranna.

The following document was produced for the defence:—

I. Document dated 11-12-1901 in respect of the produce of the land in dispute.

Nature of the Evidence.

Complainant Earakka, prosecution 1st witness has deposed as follows:— "DoddaVeeranna, now deceased, elder brother of 1st and 2nd accused is my

elder brother. He has one daughter. She has been married to my son. This my son Thimma is present (here). My father's name is Dyavanaika. My father had 2 daughters, and 4 sons—*viz*—1st accused Sanna Veeranna, 2nd accused Kallu Veera, Chenna, who is no party in this case and deceased Dodda Veeranna. Dodda Veerana and the 1st and 2nd accused were living separately in Chowti. For 10-18 years I was living with Dodda Veernna in his house. Dodda Veeranna died 3 years ago. The accused became divided from Dodda Veeranna 18 years ago, and have been since living separately. The land has been in my possession from that time until now. I have cleared a debt of Rs 300 contracted by my elder brother in respect of this land. My elder brother has no sons. His only daughter is married to my son; and he kept my son in his house. Last year *i. e.* in 1901, I myself cultivated (the land). I myself put up the stack. I wanted to clean the thrashing floor, and thresh the corn. In the meantime the accused came, threshed the paddy and carried away the produce. The accused carried away 2 Candies of paddy (*i. e.* 40 Kolagas). which had been grown in "Oorumundina gadde" and 'Kaddayada gadde'. One Kolaga may be equivalent to 60 pakka seers (measures). Immediately I came to Sorab to present the petition. As there was galata, I beat on my mouth when the accused carried away the paddy. K. Kempanna, Thalvar Bharma, and Madar Sab came. I asked them to bear witness to the carrying away the paddy by the accused on the night of Saturday. I have been paying kandayam for this land. Until 3 years ago my deceased elder brother was paying it. After his death I have been paying it. I have produced the receipt book to show this The accused have not as yet harvested the produce of land which fell to their share. I had complained to the Police previous to the commission of the offence by the accused, *i. e.* 6 days previous to the occurrence. The Patel came and ordered the accused not to thresh (the paddy). Afterwards there was a panchayat. I got fever and went home. I had cultivated Nadiga Swami Row's wet land for 'paloo' (share). The accused raised an objection in this respect also. I complained to the Police in respect of that. The Patel had collected men to hold a panchayat. I did not agree to this panchayat and went away.

Prosecution 2nd witness Sivappa states:—"I know deceased Doddaveeranna, complainant's elder brother. He died 3-4 years ago. The said Doddaveeranna, the 1st and 2nd accused before Court, and another Chenna effected a division about 17-18 years ago. From that time Doddaveeranna lived separately and the 2nd accused and also Chenna lived separately. Doddaveeranna is the son of Dyavanaika by his 1st wife; and the 1st and 2nd accused and Chenna are sons by his second wife. I have seen the wet lands in dispute. These were in the possession of the complainant and the deceased Doddaveeranna. Deceased Doddaveeranna and the complainant were cultivating this jointly. After Doddaveeranna's demise, the complainant and her son were cultivating it. The complainant herself got this land cultivated last year, and got (the crops) reaped and stacked. The Patta of the land that is cultivated by the complainant and that of the land that has fallen to the share of the 1st and 2nd accused used to be given in the name of the deceased Doddaveeranna. The names of the respective persons (owners) have been mentioned in the Patta regarding payment of kandayam for their respective shares (of land.) I see Receipt Book A. It is stated therein that complainant and the 1st and 2nd accused persons paid kandayam separately." In cross examination he has stated thus. "The complainant told me that accused persons took away the produce by force. I made enquiries. The 1st accused said that he had removed it. I said "you should not quarrel among yourselves. You can thresh the paddy and entrust it to somebody. It will be delivered to you by Sircar after making some settlement. To this effect a document was executed. The complainant did not consent to this and went away. I handed this document to Police Mokunda and went away. It is stated that this is the land that fell to Doddaveeranna's share. The panchayet was made with a view to prevent them from quarrelling among themselves.

The Prosecution 3rd witness Madar stated as follows:—

I have seen the wet land in dispute. The 6 accused persons took away the paddy of that land on Saturday. On Sunday they took away the paddy of another land called "Kaddayathagadde". This land fell to the share of Dodda Veeranna, Thimma and his mother Erakka. The complainant, cultivates it."

In conformity with the above statement, the 5th witness Kempanna has stated that he personally saw the accused persons carrying away the paddy of the complainant's wet land.

4th witness Shanbogue Purnachar stated as follows:— 10

I knew the deceased Dodda Veeranna. I know the complainant and the accused persons also. I have seen their wet land in Hire Chavati village. Erakka (complainant) and her son have been cultivating the wet land that fell to Dodda Veeranna's share. After Dodda Veeranna separated himself, complainant Erakka was living with him. Dodda Veeranna died 3 years ago. Since then the land in dispute has been in complainant's possession. Dodda Veeranna himself was paying the Kandayam of the land in dispute during his lifetime. After his demise complainant Erakka has been paying the Kandayam. I have been Shanbogue of this village for the last 22 years. When I had been for "Khaneshumare" work the accused and Dodda Veeranna told me 20 that they were divided and requested that their names should be written separately. I have done it. They requested me to divide the Kandayam also according to their shares. I did that also."

Receipt book A has been looked into. It contains entries up to date from the year 1897-98. It is entered therein that the complainant and the 1st accused had paid Kandayam separately.

The accused persons state that they are not divided in interest, that the land in dispute is in their possession, and that the Potel and others have, through enmity, caused this complaint to be lodged.

Police Constable Mookunda, the 1st witness for defence, states as follows:— 30

A Panchayat was convened in connection with the produce of the land in dispute. A document was written then. The Panchayats left the paddy in the accused's possession saying "let the 1st accused harvest the paddy and keep it with him. After the settlement of the dispute, the person in whose favour it will be decided, may take it". I was presnt then. They gave the document written then to the 2nd defence witness Bishtana.

2nd witness Bistana stated as above and produced a document. It is marked No. I

Defence 3rd witness Chikkappa, 4th Veerabhadra, and 5th Singranna have deposed that the land in dispute was in the possession of the accused. 40

No. 1 is produced by the 2nd defence witness. It is mentioned therein that the land in dispute was cultivated by the complainant's son Thimma. It contains also a statement that, till the dispute is settled, the produce should be in the possession of the accused and that it should be produced when the Government order for it. It also contains an entry to the effect that the paddy measured 12 "Chitni Kandagas". It does not bear the signature of either the complainant Erakka or her son.

It is clear from the evidence of the prosecution witnesses that the accused and their elder brother Dodda Veeranna were divided in interest 17 or 18 years ago, that, since then, each person is cultivating his own 50 share of land separately, that each person is enjoying his share of land

paying the Kandayam thereof and that after the death of Dodda Veeranna, the complainant and her son have been cultivating the land and paying the Kandayam thereof. It is said that Dodda Veeranna's daughter is given in marriage to Thimma. That all of them are living in his (D. Veeranna's) house only, and that Dodda Veeranna has no sons. It is clear from the proceedings conducted on complaint being lodged by the complainant in the Police &c. that the accused persons, dishonestly and without the consent of the complainant, carried away the paddy raised by her. If it be true that, as stated by the accused, the land in dispute has been in their enjoyment there is no necessity for the complainant to pay the Kandayam of that land, nor is there any reason for her to lodge a complaint. The document produced on behalf of the accused should have been produced at the time of the examination of the prosecution witenesses and they (*i. e.* the prosecution witenesses) should have been questioned about it. This was not done. Apart from all this, the complainant was not a party to it and has not signed it. Besides it is in evidence that she went away expressing her non-acceptance of the document. It has been elicited from the cross-examination of the defence witenesses by the complainant that there exist ill-feelings between the complainant and the defence witenesses in connection with cast matters. The accused 3, 4, 5 and 6 have abetted the accused 1 and 2.

The defence has not proved anything to disbelieve the evidence adduced for the prosecution The defence evidence is opposed to the Government record, Receipt Patta (book) produced by the prosecution. Hence the statements of the defence witnesses cannot be believed. For these reasons the Court determines that the accused have committed the offence of theft.

SENTENCE.

The Court finds that the 1st accused Sanna Veera, 2 Kari Veera, 3 Adavi, 4 Runga, 5 Thimma and 6 Vengati are guilty of the offence of theft specified in the charge and thereby committed an offence punishable under Section 379 I. P. C. and directs that the 1st Sanna Veera and 2nd accused Kari Veera do each pay a fine of Rs. 10 or in default to suffer simple imprisonment for 7 days, the 3rd accused Adavi, 4th Ranga, 5th Thimma and 6th Vengati do each pay a fine of Rs. 5, or in default to suffer simple imprisonment for three days.

21-2-02 (Sd.)

Magistrate.

EXHIBIT D (1)

IN THE COURT OF THE 3RD CLASS MAGISTRATE

SORAB TALUK.

Complainant.		Accused
Earakka.	*vs.*	Chenna.

The Complaint is to the effect that when he had gone for thrashing his paddy stack in Chowti village, the accused trespassed upon his land, and obstructed him from thrashing the paddy and assualted his grand son Dasi and thereby committed an offence punishable under Sections 447, 341 and 352 I. P. C. and submitted A. Sheet.

The parties and the witnesses appeared on the date of hearing. The Complainant states that she and the accused have compromised their case,

that her complaint may be struck off the file. The accused Chenna is acquitted under section 345 C. P. C.

11-1-03. (Sd.) C. KRISHNAPPA.

3rd Class Magistrate.

EXHIBIT F.

IN THE COURT OF THE SUB-DIVISION MAGISTRATE

SAGAR.

Name of Accused—Sanna Eara (1st Accused.)
Age Looks about 40.
Race—Gangadikar Vakkaliga.
Religion—Hindu.
Father's name—Dyavanaika.
Resident of—Hire Chowti.
Occupation—Cultivation.

Q. You have heard what the witnesses have stated. What have you to say in respect of the statement of the witnesses that you, the 2nd, and the 3rd accused persons beat and murdered Thimma?

A I did not do any such thing.

Q. What else have you to say?

A. I have nothing else to say.

Read over in Canarese and acknowledged to be correct.

Mark of 1st accused Sann Eera.

24-6-03. C. S. BALASUNDRAM IYER.

Q. You have heard the charge read over. Give the names of witnesses if any, whom you will examine on your behalf in the Sessions Court?

A. On the evening of the day previous to the day of occurrence I had gone to Nagappa Gowda at Yennekoppa in connection with dealings. In this connection the following 2 persons should be examined namely, Gangadikar SannaVeera Badrappa *bin* Javaranna, and Kamanavalli Earappa Gowda *alias* Nagappa Gowda who is doing duties of Potel in Kamanahalli.

"Certified"

C. S. BALASUNDRAM IYER.

24th June 1903. *Sub-division Magistrate,*

Sagar.

EXHIBIT F (1).

Name of Accused—Chenna (2nd accused).
Age—32.

Race—Gangadikar Vakkaligar.
Religion—Hindu.
Father's name—Dyavappa.
Resident of—Hire Chowti.
Occupation—Cultivation.

Q. You have heard the statements of the witnesses. What have you to say in respect of the statement of the witnesses that you and the 1st and 3rd accused together beat and murdered Thimma?

A. I did not do any such thing.

Q. What else have you to say?

Section Statement before Sessions Court

A. I was not present in the village that day I had gone to Dharwar zillah. I cannot name the village. I shall say (that) in the Sessions Court. This is all I have to state.

Read over in Canarese and acknowledged to be correct.

(Sd.) CHENNA

C. S. BALASUNDRAM IYER.

Q. You have heard the charge read over. If you have any witnesses to be examined in the Sessions Court, name them.

A. I have witnesses. They are:- 1. Masi Rajaksab of Kachigode Taluk, Darwar Zilla. His father's name is not known. He is a dealer in sweetmeats.

2. Yellappa, resident of the said place. His father's name is not known. He is a dealer in fried bengalgram and sweetmeats. These two persons should be sent for and examined.

CHENNA.

C. S. BALASUNDRAM IYER

Magistrate,

24-6-03 *Sorab*

"Certified"

C. S. BALASUNDRAM IYER.

24th June 1903. *Sub-Division Magistrate.*

EXHIBIT F (2).

Name of Accused—Adavi (3rd accused)
Age—Looks about 28 or 30.
Race—Gangadikar Vakkaligar.
Religion—Hindu.
Father's name—Puttanna.
Resident of—Hire Chowti.
Occupation—Cultivation.

Q. You have heard the statements of the witnesses. What have you to say in respect of the statement of the witnesses that you and the 1st and

2nd accused together beat and murdered Thimma.

A. I have not taken any part in that.

Q. What else have you to say?

A. I know nothing about that. I do not krow why the witnesses state against me.

Read over in Canarese and acknowledged to be correct.

Mark of Adavi.

24-6-03. C. S. BALASUNDRAM IYER.

Sorab.

Q. You have heard the charge read over. If you have any witnesses to be examined in the Sessions Court on your behalf, give their names? 10

A. I have no witnesses.

Mark of Adavi, 3rd accused.

Read over and acknowledged to be correct.

23-6-03 C. S. BALASUNDRAM IYER.

"Certified"

24-6-03. C. S. BALASUNDRAM IYER,

Sub-Divison Magistrate,

Sagar.

20

IN THE COURT OF SESSIONS, SHIMOGA DIVISION.

Present: S. VENKATAVARADAN IYENGAR, Esquire.

Sessions Judge.

Shimoga Sessions Case No. 8 of 1903-04.

Complainant.		Accused:
Government.	Vs.	1. Sanna Eara. 2. Chenna. 3. Adavi.

Offence:—Murder under Section 302 Indian Penal Code.

Opinion of the Assessors:—Not guilty. 30

Finding of the Judge:—Not guilty.

Order:—All the accused to be acqitted and released.

JUDGMENT.

1. Mr. Balasundaram Iyer, Sub Division Magistrate, Shimoga committed the accused persons for trial in this Court on a charge of murder punishable under Section 302 Indian Penal Code.

2. The prisoners pleaded not guilty

The witnesses examined for the prosecution are.—

i. Mr. Krishnappa. ii. Vidwathsiromani Pillay.
iii. Sheik Ahmed. iv. Fakeera.
v. Lingappa Gowda. vi. Hole Basya.
vii. Thimma. viii. Ranga.
ix. Gonya. x. Sivappa Gowda.
xi. Gonya. xii. Basya.
xiii. Mallari. xiv. Thimma.
xv. Bharamiah. xvi. Earakka.
xvii. Gangavva. xviii. Dasi.
xix. Seenappa. xx. Hutcha Row.

The exhibits filed for prosecution are—

A.	*Post mortem* report	Dated 8th June 1903.
B and B(1)	Portions of witness Fakeera's evidence before the Committing Magistrate dated 26th June 1903.	
B(2).	The entire deposition of Fakeera.	
C.	Potails report dated 6th June 1903.	
D.	Copy of Judgment in Criminal Case No. 65 of 1901-02 on the file of Amildar Magistrate dated 21st February 1902.	
D(1).	Order of Amildar Magistrate dated 11th January 1903.	
E.	Plan.	
F to F(2).	Statements of accused persons respectively before the Committing Magistrate.	

5. The articles produced are.—

No. i. Panche.
No. ii. Another panche.
No. iii. A club.
No. iv. Another panche.
No. v. A piece of white cloth.
No. vi. A white turband.
No. vii. A Dhotra.
No. viii. A white turband.

6. The case for the prosecution is that by reason of enmity existing between Thimma and the accused persons, the latter caused the former's death at or near a tank in Chicka Chowti early on the morning of Saturday the 6th June 1903 by beating him with a club and other weapons.

7. The 1st accused stated that he spent the whole of the night in the house of the Potail of Yennekoppa who had sent for him on the evening of the 5th June 1903 and returned from there direct to his garden, which he reached an hour and a half after sunrise. Subsequently he heard that Thimma had been murdered. Since 3 or 4 years there was enmity between him and the deceased and the members of his family. Kachavi Linga, Sivappa Gowda and Bharmappa Gowda, brought about the dispute in the matter of a certain land and bear him malice.

8. The 2nd accused stated that he was in a certain temple at Kachavi the whole night. He went there on the 5th June 1903 to collect money due to him. Next morning he left the place two hours after sunrise, and then heard of the murder. After the death of one Dodda Veera the 2nd

accused asked the Shanbogue and Potail to get the Patta of the land made out in his name. The Potail (Sivappa Gowda) asked for a bribe of Rs. 50 which 2nd accused refused to pay. The Potail replied he would get the Patta made out in the name of Doddeera's daughter. Sivappa Gowda, Bharmappa Gowda, Kachavi Linga and others have formed themselves into a party against 2nd accused and on this account he had to resign his post in the Police.

9. The 3rd accused said he had nothing to say in the matter of the case.

10. No witness was examined nor any exhibit filed for the defence. 10

11. One Dyava Naika of Hire Chowti had two wives. His children by the first wife were Doddeera and Earakka, and by the second wife the 1st and 2nd accused persons and one Kalvira. Doddeera died some 5 years ago leaving a daughter Gangee and no male issue. The deceased Thimma was the son of Earakka and had been married to Gangee. The 3rd accused has married the daughter of the 1st accused.

12. Doddeera occupied the house adjoining that of the 1st and 2nd accused. Both the houses formed one building at first, but appearently after partition it became two. Doddeera lived with his sister, daughter and son-in-law. All the accused are living together. Kallaveera also lives 02
with him.

13. After Doddeera's death, his sister (Earakka) has been managing the family for and on account of his daughter Gangee, her daughter-in-law. There is no evidence on record as to whether the two families were or were not on good terms during Doddeera's life time. After his death, however, the e was open enmity complaints and counter complaints were often exchanged.

14. The brother of one Singree has married the daughter of the 2nd accused. The Holayars assaulted him and spat him at the face. On this account he was considered to have been degraded in caste. The village however divided itself into 2 parties in this matter. Ten families inclusive of the accused espoused his cause and 10 inclusive of Earakka and her son the opposite cause. By reason of the action taken by the latter the Gooroo fined Singree one rupee. 08 Cause of dit.

15. Earakka has a widowed daughter by name Kottree. In connection with some scandal with reference to that widow, the Gooroo held an enquiry on Singree's and his people's complaint. Whether Earakka was or was not fined by the Gooroo on this account is not clear, but she paid him a *kanike* (offerring) of Rs. 2. Dr

16. In the paddy field known as Nadig Rama Row's gadde, the accused persons cultivate 3 pieces and the deceased cultivated the 4th. Two years ago the latter and his mother threshed the paddy grown in their piece and heaped it in the threshing floor. The accused persons and Kallaveera attempted to take it away. 04 Dr

17. Two months afterwards the 1st and 3rd accused persons and others removed the paddy which the deceased and his mother had grown on two other paddy fields, Kadaya Gadde and Oormundana Gadde, which both belonged to Doddeera. This matter was carried before the Magistrate. On the 21st February 1902, the present 1st and 3rd accused persons besides Kalveera and others, were fined in different sums. Dr 05

18. In the matter of the Patta of the lands which stood in the name of Doddeera, there is open rupture between the two families. The 2nd accused Dr.

and apparently his brothers with him, want to have the Patta transferred to their name being the nearest male heirs. Earakka opposes them in this matter on behalf of her daughter-in-law Gangi as being the sole heir of her father. This dispute is pending in the Revenue Department since two years.

19. In connection with the paddy removed from the Kaddaya Gadde and Ooramoondana Gadde, Earakka has filed a suit in the name of Gangi against the accused persons for the value thereof. Of course the deceased interested himself in it. This suit was to come on for hearing on the 13th June last and is still pending.

20. It is conceded by the 1st and 2nd accused persons that the deceased was murdered, but the 3rd accused has not said anything on the point. It is therefore said that the evidence about this matter should be considered. In this connection, much was said on behalf of the defence about the discrepancies in that evidence. They refer to points like these :—whether the body was lying face downwards or upwards, whether it was covered up by a cloth or not, whether it was entirely naked, whether the Langoti was lying at the head, foot or side, whether one piece of cloth or more were lying near it or in the neighbourhood, whether blood was on the face or elsewhere, what were the marks of injury observed, whether bloodstains were on the ground where the body was or elsewhere also, whether there were pools of blood on the bund, who came first to the spot at the inquest and who afterwards, in what order they left the place, what were the statements made at the inquest, and the like. It was urged that these discrepancies might tend to show that the deceased committed suicide or met with an accident in the shape of a fall from his cart which ran over him.

21. In my opinion these discrepancies are of no weight at all. The body was discovered in a cart rut. Soon after inquest, it was made over to Police Constable Sheik Ahamed (3rd witness) who carried it in a cart to the Hospital Assistant Vidvathsiromani Pillay (2nd witness). The latter held a *Post mortem* examination at once. The marks he observed as sworn to by him and as certified in exhibit A, negative all idea of suicide. On the body he discovered that the skin had been peeled off from below the left nipple up to the navel to the extent of 4 inches in breadth. This seems to be the basis for a case of accident. The evidence of the Medical expert is that this was not due to a cart while passing over the body, because the peeling commenced abruptly and ended abruptly. I think I must accept this opinion, for if the cart wheel had come over the body from the direction of the navel the heart would have been crushed, or if from the direction of the nipple downwards the private parts would have been so. The Medical certificate is that both these organs were not so. The heart was congested and the private parts healthy.

22. A suggestion was submitted on behalf of the defence that the injuries might have been caused immediately after the death of the deceased. There is no foundation whatever for this. In that case the tissues adjoining the wounds would not be swollen and the Medical evidence is that they were not so. It was contended that the certificate of the Medical officer does not record that fact, but his evidence is clear on the point.

23. Thus it is clear that the wounds indicate homicide.

24. Then comes the question as to whether the prosecution has established beyond doubt that the accused persons caused the deceased's death. Immediately after the body was discovered, suspicion seems to have been directed against the accused persons and Jakya, Mukunda and Kallaveera. Kallaveera was omitted however subsequently. The Amildar

arrived on the spot on the 7th June 1903 at night. Before then, the three accused persons and Jakkiga had been arrested and secured in a temple. After he came there he examined one Mukunda and arrested him also.

25. The Amildar's evidence is that he obtained a remand from the Sub-Division Magistrate up to 22nd June 1903 as regards these two persons, but yet discharged them from custody that day without any Magistrate's order and never placed them before that functionary for enquiry and trial. Jakkiga is a caste man of the accused persons and lives with them. Mukunda is a Police Constable and the 1st accused has given him a house to occupy. Earakka had complained against these two persons also in the matter of the removal of paddy from Kaddayada gadde and Ooramundana gadde. She therefore told the local authorities that she suspected them too in the matter of her son's murder.

26. It is contended that the conduct of the Amildar with reference to Jakkiga and Mukunda shows that the case which was started on mere suspecions against the accused persons has since been made to assume a formal shape and therefore the evidence adduced for the prosecution has to be considered with the utmost caution. Especially so, since 3 of the witnesses Gonya, Thimma and Basya belong to one family; 3 more Hole Basya, Ranga and Gonya to another family; 3 more Eerakka, Gangavva, and Dasi to other family with another Mallari stated to have been associated with it by reason of Eerakka's widowed daughter Kotri. 3 more are Potails under the orders of the Amildar, and 3 more Sheik Ahmed, Seenappa and Hutcha Row Police officers, also under the Amildar.

27. It may or may not be true, that the Amildar, is desirous of being considered to have been able to bring murderers to justice, but that can be passed over. The case sought to be made out for the prosecution is that:—

(a) Some days before the murder, 2nd accused consulted a sorcerer by name Fakeera (4th witness) about causing the death of the deceased, and Mukunda asked him for a charm in the matter some 5 or 6 days after the 2nd accused.

(b) Hole Basaya (6th witness) saw the accused persons and the deceased fighting near the tank, in the course of which the deceased fell down and 1st accused threatened the witness, whereon the manure cart which he was driving at the time was upset by the bullock having taken fright in consequence of 1st accused shaking a club at them.

(c) Ganga (11th witness) who was going to a jungle with his brother Basaya (12th witness) with a cart to bring thorns, stopped the cart on hearing a cry from the direction of the tank, attended calls of nature, went to the tank to wash himself, and on coming on the bund saw accused persons stooping over something lying in the cart rut behind the bund. The accused ran away after he questioned them who they were and he then discovered the body.

(d) Eerakka, Gangee, Dasi and Thimma (16th, 17th, 18th and 14th witnesses) saw 1st accused running homewards from the direction of the tank soon after the cry, and the 2nd and 3rd accused came in a cart from that direction shortly afterwards.

(e) Mallari (13th witness) saw the 3rd accused go towards the tank in a cart shortly before the cry and Eerakka (16th witness) saw the 1st and 3rd accused take the cart to the fields that morning soon after her son the deceased took his.

(f) Stained clothes were found in the house of the 1st accused, namely articles Nos. 1, 4, and 5. Stained clothes Nos. 6, and 7

on 1st accused's person and stained cloth No. 8 on the 3rd accused's head, as likewise stained club No. 3 in 1st accused's house.

28. It was the manuring season then. I therefore think that it is true that deceased went to the fields that morning with his manure cart and that 1st, 2nd and 3rd accused also did so. Generally this work is commenced before dawn.

29. Fakeera did not give positive evidence in this Court in the matter of his having been consulted about the deceased's death. There is some evidence to this effect on his deposition before the Magistrate. But after all he is a vagabond and questionable witness.

30. Hole Basya deposed to the truth of the fact he was called to prove and it is said that he is corroborated by Thimma (the 7th witness) who was easing himself when he ran home after the cart was upset and by Runga (8th witness) his brother-in-law, to both of whom he is said to have mentioned the matter. It is further said that his evidence is confirmed by Gonya (9th witness) who was sent by Runga with him to set the cart right again. But it has so happened that Hole Basya escaped from the village soon afterwards and required a slap on the face from the Potail Sivappa Gowda in the presence of the Amildar to disclose the matter. He was also interviewed by the Police Inspector on his way to the Court It is said he required this inducement because he was afraid of the accused persons who are bad characters, would beat him. But all the same he did not give evidence voluntarily and he is a mere lad of about 15 or 16. The witnesses called to corroborate him also kept back their evidence till in a way solicited by the Potail. Of course in a serious case like this, it cannot be expected that the authorities would be able to get evidence without seeking for it; but it is strange that when public opinion in the locality was not in favor of the accused persons, people should have kept back their evidence instead of being ready to offer it.

31. I have no doubt that the deceased did cry out for help at the time, but Gonya, the 11th witness, does not seem to be above comment. He stopped his cart as soon as he heard the cry, but, instead of hastening to the spot wherefrom it came, proceeded to attend calls of nature, and went a long distance to wash himself. It is doubtful if he could not get water nearer. His evidence would show that he proceeded to the tank more for washing than for ascertaining the cause of the cry. It also shows that the accused persons need not have waited till they were discovered by him. At any rate he is not corroborated by his brother who was waiting for him at the cart and it is strange he did not communicate to him what he saw in regard to the accused persons. He only told him that he saw the deceased's body lying there and nothing more.

32. It may or may not be true that accused persons were seen returning from the direction of the tank walking or in the cart, but they had also gone to their fields with their manure. Earakka has deposed that when she was going to the spot after hearing the cry, Joga, the father-in-law of the 1st accused who was following her, questioned the 2nd accused, when he was returning in his cart, as to what was the reason of the cry, and 2nd accused replied that somebody had struck down Thimma. This is an uncommon conduct of coolness on the part of the 2nd accused. If he had taken a part in the commission of murder only a short while previously, it is strange he could afford to exhibit no symptom of any excitement. Added to this is the fact that Hole Basya saw 2nd and 3rd accused driving again to the scene of murder, in their manure cart, shortly after the hubbub of the same rose.

33. There is no evidence to say that the stain on the cloths are of

blood. The accused persons prepare areca-nuts and the juice thereof have similar stains. There is no evidence to show that the 1st accused was seen with the club when running home from the scene of murder and it is no wonder that a club should be found in his house. It is not proved that it has any blood stain. The medical evidence is that a sharp edged instrument also was used in causing the injuries found on the body. No such instrument has however been found with any of the accused.

34 I am not prepared to say that the case as against the accused persons is wholly unfounded. In fact, my individual opinion is that all or some of them caused the deceased's death in an alteration in the matter of manuring the paddy field. They wanted to dispossess him of it. They apparently had strong motives to do so, because the suit for the produce thereof, which produce the accused took away, was to come on for hearing in the near future. But I am sorry to observe that the evidence is not sufficiently strong to bring the guilt home to any of them. The Assessors who heard the evidence with attention expressed their doubt about it. I feel, I cannot avoid sharing their opinion and by law I am bound to give the accused the benifit of the doubt.

35. The Court therefore concurning with the Assessors finds the accused persons not guilty of the offence set forth in the charge, namely murder punishable under section 302 I. P. C. and the Court directs that they be and are hereby acquitted and released.

Pronounced in open Court.

S. VENKATAVARADAN IYENGAR,

24th Augest 1903. *Sessions Judge.*

IN THE COURT OF THE SUB-DIVISION MAGISTRATE, SAGAR.

Dated the 24th day of June 1903.

Present C. S. BALASUNDARAM IYER, Esquire.

Criminal Case No 59 of 1902—1903.

Complainant.	Accused.
Government	1. Sanna-Eara. 2 Chenna. 3. Adavi.

RESUME.

In this case, the Sorab Taluk Police have charged the accused persons with having caused the death of Thimma on the 6th June 1903, at Chickchowti, by beating him with a club and other weapons, and having thereby committed an offence punishable under Section 302 I.P.C.

3. The following witnesses were examined for the prosecution:—

1. Eerakka, 2. Gangeria, 3. Dasi, 4. Hole Basya, 5. Ranga, 6. Hegdera Thimma, 7. Gonya, 8. Mallari, 9. Thimma, 10. Nigadi Fakeera 11. Vidvatsiromani Pillay, 12. Bharmia, 13. Sivappa, 14 Linga-ppa, Gowda, 15. Sheik Ahamed, 16. Sivappa, 17. Gonya *bin* Sidda 18. Basya, 19. Hucha Row.

4. The following exhibits were filed for the prosecution and the following articles were produced before the Court.

A. Copy of a judgment in case No. 65 of 1902—03. on the file of the Amildar and 3rd class Magistrate, Sorab Taluq

B. *Post mortem* report dated 8th June 1903.

C, Chick Chowti Potail's report dated 6th June 1903 to the Police Station at Chowti.

D. Do. to the Police Station at Anvatti.

E. Sketch showing the scene of occurrence and its surroundings.

F. Copy of order in Criminal Case No. 13 of 1902-03 on the file of the Amildar and 3rd class Magistrate, Sorab Taluq.

1. A punche with blood stains.
2. Do.
3. A bamboo club with blood stains.
4. A torn punche with blood stains.
5. A piece of cloth with blood stains.
6. A white turband with blood stains.
7. A dhotra with blood stains.
8. A white turband with blood stains.

5. The accused reserved the cross-examination of the prosecution witnesses and made the following statements.

Sanna Eara 1st accused:—"I did not beat Thimma to death as deposed to by the witnesses. I have nothing more to say. The evening before the crime was committed I had gone to Yennekoppa Lingappa Gowda in connection with certain money-dealings. For this Gongadikar Sanna Virabhadrappa *bin* Javaranna of Hire Chowti, Komaranavalli Potel Eerappa or Ningappa gowda should be examined as my witnesses."

Chenna:—"I did not beat Thimma to death as deposed to by the witnesses. That day I was not in our village. I had gone to Dharwar District. I cannot say what village it was I had gone to. I shall state it in the Sessions Court. This is my statement. I have witnesses on my behalf.

1. Rajak Sab of Kackhe village, Kod Taluk, Dharwar District. I don't know his father's name. He is a sweetmeat seller.

2. Areya Yellappa of the same village sweetmeat seller. Don't know his father's name. These two should be sent for and examined."

Adavi 3rd accused:—"Regarding the murder of Thimma as deposed to by the witnesses I took no part in it. I know nothing about it. I don't know why the witnesses have deposed against me. I have no witnesses to be examined on my behalf.

6. The 1st and 2nd accused are brothers and 3rd accused is a son-in-law of the 1st accused. They are all living together in their ancestral house at Hire Chowti. There was a step brother of the 1st and 2nd accused called Dodda Eara and a step sister Earakka (1st P. W.) Dodda Eara had separated from his step brothers about 10 or 18 years ago and lived in his share of the ancestral house divided by a partition, a low mud wall and tatties, from the portion occupied by the accused. Dodda Eara died about 5 years ago leaving only a daughter Gangavva (2nd P. W.) who was the wife of the deceased Thimma. This Thimma was the son of Earakka (1st P. W.) the full sister of Dodda Eara and half sister of the 1st and 2nd accused. Eara, since the partition between the brothers, Earakka who had become a widow lived with her brother Dodda Eara. After Dodda Eara's death, his daughter Gangavva (2nd P. W.) and her husband Thimma (deceased) continued in the enjoyment of the lands that had belonged Dodda Eara. Some time after Dodda Eara's death, the 1st and 2nd accused and another brother of their's Kalviria tried to oust the deceased and his wife from Dodda Eara's lands and regain the lands

of their dead brother as the surviving male members of the family. During the past two or three years there have been several disputes between the parties regarding the crops on the lands cultivated by the deceased, and in December 1901 the accused's party took away the crops reaped from certain of such lands. Earakka (1st P. W.) who seems to be a woman very capable of managing her affairs, laid a criminal complaint against some of the accuseds and certain other people, in which the later were fined. Subsequently filed a Civil suit to recover the property wrongfully removed by them and the suit is still pending in the Sagar Munsiff's Court. Besides these there were several other disputes some of which were taken before the Police and the Magistrate, and afterwards patched up on the interposition of the village elders. A short time before the fatal culmination of dispute in Timma's murder, Erakka believed that the accused were resorting to one Nigidi Fakira a worker of charms to work some evil to her and hers through sorcery. She complained of this to Lingappa Gowda of Yennkoppa (14th P. W.) and he remonstrated with Fakira and had him sent away from Yennkoppa. Fakira (10th P. W.) though admitting Chenna (2nd P. W.) had visited him at Yennekoppa for a charm and had then sounded him about sorcery, denies that any definite request was made to practice his arts against Earakka and her family. This denial is perhaps to save his reputation.

All this shows that there was considerable ill-feeling between the parties and that the accused had sufficient motive to cause injury to Earakka and her people.

7. On the morning of Saturday the 6th June, the deceased Thimma went with his manure cart to his field, (*vide* evidence of 1, 2, 3 P. Ws.) Mallari (8th P. W.) drove his cart at a short distance behind Thimma's cart. On the way 3rd accused Adavi with a manure cart joined them from a path leading from the backyard of accused's house and he drove his cart between Thimma's and Mallari's carts. They proceeded in this manner for some distance and then Mallari branched off along a different path leading to his field while Thimma's and Adavi's cart went along the path leading by what is known as Desayi Waddu. (*Vide* evidence of Mallari 8th P. W.) What happened immediatly afterwards, and how the scuffle began, there is no knowing, as one of the participants is dead and the other three are in the dock. What is known is that when Holebasya (4th P. W.) went driving his manure cart to near the Desayi Waddu (the bund of a tank) below which the path runs, he found the three accused persons pursuing beating the deceased Thimma who was running about. Sanna Eara (1st accused) had a club with him; and Chenna 2nd accused, an axe. A blow with the club felled the deceased to the ground. Then Sanna Eara noticed Holebasya and went towards him, club in hand, abusing and threatening him for having come there. Holebasya's bulls shied, turned across the path and cart was capsized. Holebasya, (who is a young boy), left the cart and bulls as they were and ran home as fast as he could. On the way home, he met Waddar Thimma (6th P. W.) and being asked why he was running told him the accused and deceased were fighting together and that his cart had been upset. At about the same time of the prosecution witness Gonega and his brother Basya (18th prosecuton witness) who were at some distance on their way to Honnali jungle to fetch thorns, heard the noise of fighting and cries of 'Ayyayyo' Gonya (7th prosecution witness) who went to Desayi Waddu tank to wash himself after answering calls of nature, went up the tank bund. He saw the three accused bending over something on the ground. When he appeared over the bund they saw him and ran away towards the Gonya (7th prosecution witness) went down the bund and found Thimma lying dead in the cart track. Gonya went back and told Basya (18th prosecution witness) and as the corps lay in the track and as they would have had to go over it if they went to Anvatti jungle, they changed their destination and turned off to the Huligadde jungle instead.

8. Hole Basaya (4th P. W.) who had run home as already described, informed his uncle Ranga (5th P. W.) of what had happened, and then Hole Basaya and one Gonya *bin* Sidda (17th P.W.) returned to the Desayi Waddu, set right the overturned cart, and went with it to their field. The accused were not there then and Thimma was lying dead.

9. After Thimma (deceased) had left his house in the morning, his wife (2nd P. W.) who had gone out to calls of nature, heard some noise of quarrel and thought she heard her husband's voice calling in distress. Seeing also that he did not return as soon as he ought to have done, she felt disquieted and went with her sons Dasi (3rd P. W.) and Hanumantha towards the field. On the way Thimma (6th P. W.) told Dasi who was in advance of party, that Hole Basaya had told him of Thimma (deceased) and the accused fighting together. Further on they met accused's empty manure cart driven by Chenna and Adavi (2nd and 3rd accused) further on Sanna Eara hastening homewards. Proceeding to the Desayi Waddu, they found Thimma lying dead. Earakka (1st P. W.) mother of the deceased also went up and afterwards information was sent to the Potail of Hire Chowti and Chick Chowti, (13th and 12th P. W.). On Earakka's complaint, reports were sent to the station at Anvatti and Duffedar Seenappa (16th P. W.) arrived on the spot in the afternoon and drew up an inquest report and sent the body to Sorab in charge of Constable Shekh Ahamad (15th P. W.) for *post mortem* examination. The Hospital Assistant Vidvatsiromani Pillay (11th P. W.) deposes that death was due to rupture of the spleen and pressure of blood on the brain. There were a number of incised wounds on the head, the whole surface of the body and the internal organs were found congested showing that the deceased had received a very severe beating. The bones of the right forearm were broken. There were also bruises and abrasions showing that the man had been dragged about on the ground.

10. The above summary of the evidence clearly shows that it was the accused persons that beat the deceased to death. There is no reason to disbelieve the prosecution witnesses, Hole Basya (4 P. W.) Gonya (7 P. W.) who are the chief witnesses that bring home the guilt to the accused. A witness Venkatappa was cited in the charge sheet to prove some partial admissions of guilt said to have been made by the accused. But as he is a resident of Gadi Koppa near Shimoga his presence could not be secured during the preliminary enquiry without considerable delay. He has not therefore been examined, but he will be summoned to appear before the Court of Sessions. The 1st and 2nd accused plead an *alibi* while the 3rd states that he was at home.

11. As to the legal offence the acts of the accused amount to, the place and time of the occurrence go to show that the murderous assault committed by the accused was not a carefully premeditated one carried out on a prearranged plan. It seems probable that while the carts of the deceased and the 3rd accused were near the waddu the 1st and 2nd accused also turned up there, as the place is near to their field, and some altercation may have sprung up. In the scuffle that ensued, the pentup anger and bad blood between the parties may have excited the accused to make an end of their opponent. It cannot however be said that the accused caused the death whilst deprived of the power of self-control by grave and sudden provocation, or that they caused the death without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, so as to reduce the offence to the minor one of culpable homicide not amounting to murder. The several injuries caused to the deceased, the weapons with which they were caused *viz.* an axe and a club, the manner in which the injuries were caused, the deceased running about and the accused punishing and beating him, all show that the accused either intended to cause death or such injuries as were likely to cause death, or that they must have known that their act was so imminently dangerous that it must, in all probability

cause death or such bodily injury as was likely to cause death.

12. The evidence summarised above is credible and it clearly proves a *prima facie* case of murder against the three accused persons.

13. The three persons Sanna Eara, Cnenna and Adavi have therefore been committed for trial to the Court of Session on a charge of an offence under section 302 I. P. C.

C. S. BALASUNDARAM IYER.

Sub-Division Magistrate.

22-6-1903.

Sorab.

Accused Sanna Eara, Chenna and Adavi brought before the Court with charge sheet. Mr Venkata Row advocate appears for them.

Inspector and Venkata Row appears for the prosecution.

Examined Earakka (1st P. W.).

Exhibit A filed for prosecution. Articles 1 and 2 marked.

Adjourned to tomorrow for further examination of witness.

22-6-1903.

C. S. B.

23-6-1903.

8 A. M. – 11 A. M. and 3 P. M. – 6. 30 P. M.

Accused present. Advocate Mr. Venkata Row is absent. Examined 15 prosecution witnesses. 2 witnesses dispensed with. Some witnesses are absent and two are expected to appear tomorrow. Adjourned to tomorrow for further enquiry.

23-6-1903.

C. S. B.

24-6-1903.

Accused brought up. Examined 3 prosecution witnesses and accused. One other witness Venkatappa is absent. He is a resident of Gadi Koppa in the Shimoga Taluk and though his evidence is important I do not think it necessary to adjourn the case to secure his attendance. He will be summoned to appear and give evidence in the Sessions Court. Charged the accused under sectien 302 I. P. C. and committed them to the Court of Session for trial. 3 witnesses dispensed with by prosecution.

24-6-1903.

C. S. BALASUNDARAM IYER

Sub-Division Magistrate

Deposition of Earakka 1st witness for prosecution.

Age Looks about 60.
Race—Gangadicar Vakkaligar.
Religion—Hindu.
Father's name—Dyamanayaka.
Resident of— Chowti.
Occupation—Cultivation.

Solomnly affirmed.

The deceased Thimma was my son. He was known as Nelanayakana Thimma and Doddamane Thimma. Of the accused now in Court 1st accused Sanna Eara, and 2. Chenna are my younger brothers and 3rd accused Adavi is the son-in-law of the 1st accused. These persons killed my son. My son died on a Saturday, 17 days ago. That day in the dawn while it was still dusk my son rose and went to the field driving a manure cart. As soon as he went a short distance, Sanna Eara (1st accused) who was lying in the outer padsale of his house went and awakened the 3rd accused. Then Adavi (3rd accused) also yoked a manure cart. That cart also went in the same direction that my son had gone. I did not see who went with the accused's cart. I remained at home, and a short time afterwards near day-brake my daughter-in-law went out to answer calls of nature. While I was at home my daughter-in-law came and said to me that some one was crying out (ಮೊಯಿ ಕೊಂಡ ಹಾಂಗೆ ಆಗುತ್ತಪೆ) and that it looked like my son's voice. I told her not to be anxious as it was morning and there was no fear of thieves, and told my grandsons Hanumantha, and Dasi to go to the field to spread manure. They started to go and my daughter-in-law also went saying that somehow she felt uncomfortable. I also followed them a short way behind. On the way in a dry land of ours known as Oorumondana Hakkalu, we met 1st accused Sanna Eara running towards his house, with some clothes rolled up under his armpit. We went on to near a place called Eeligana Wadoo. There we met Chenna and Adavi comming back with their cart which was empty. The father-in-law of the 1st accused Jogappana Dani had, unknown to me, followed us and he asked Chenna what noise (ಸದ್ದು) it was that had been heard from the direction of Dasaya Waddu. Chenna said that somebody had beaten Thimma and broken his head, that he was dead about an hour or two. Hearing this I was alarmed, and ran to the Dasayi Waddu My daughter-in-law, my grandsons were there already, and I went there. Jogappana Dani also known as Jogappa followed me. I found my son lying dead in the cart track about 4 yards from a water course comming from the Dasayi Waddu. There were 7 or 8 cut wounds on the left side of the head, there was a cut wound on the left cheek, also on the nose, and there were marks of club-blows on the left chest, abdomen on the rightside, on the back, and on the feet. The right forearm was broken, pieces of bone sticking out. About a couple of yards from a Belalmara, there was blood marks as broad as a palm, a mark about two palms broad between two bushes, also in the cart tracks and also in the place where the corpse was. There were also blood marks on the Dasaya Waddu. There was also a mark of the body having been dragged down from the bund. I sent Dasi to inform the Chick Chowti Potel as the place where the corpse was belonged to Chick Chowti village. The news of the occurance spread and a lot of people came. I complained to the Potel that my brothers (accused 1 and 2) and 3rd accused and Jakkanna and Mukunda had killed my son. The Potel wrote a report and sent it to Anavatti. The Duffedar came at about 9 hours- (3 P. M.) the same day and drew up a mhazir about the corpse &c.

The corpse was put in a cart and sent to the Doctor at Sorab. Myself and the accused are living in portions of the same house. Seperating our portions is a wall about 2 or 3 feet high and about it tatties. For the past two years there has been dispute between us and the accused. When the Maharaja had come, in that year accused forcibly reaped my paddy crops. Accused and we have been living separately for the past 10 or 18 years.

About 3 or 4 months before the Maharaja came, during the areca nut gathering season, there was a dispute between accused and us about cowdung. Myself and accused came and filed complaints in the Taluk Kutchery. But our Shanbogue and Sivappa Gowda effected a compromise. About a month

before the Maharaja's visit, accused tried to forcibly take away the paddy which we had grown in the Nadig's land which we and accused had shared among us. Accused threatend us with sickles and clubs. Afterwards I had presented a petition to the Jamadar, and he and the Daffedar said that we should not quarrel among ourselves and effected a compromise, and I got my paddy. About a month afterwards when our field known as Oorumundina gadde had been reaped and when we went to thresh the paddy, 1st accused came and obstructed me. Not liking to quarrel I went home with my son. The next morning 1st accused, 3rd accused, another brother of 1st accused Kalvira and others were threshing that paddy. I went and complained to Sivappa Gowda. A panchayati took place, but nothing was decided and accused took that crop and also reaped the crop of another field known as Kaddayada gadde. This was shortly before the Maharaja's visit. I complained to the Amildar and after enquiry 1st accused, 3rd accused, Kalvira, Ranga, Kamatira Thimma, Venkati &c. were fined forty rupees. I have got a copy of that judgment and have produced it (marked Exhibit A for prosecution.) The Magistate ordered that I should sue in the Sagar Court to get back my crop. I filed a suit in the Munsiff's Court. It is still pending. The case had been posted for hearing to the Saturday following my son's death. Owing to my son's death, I did not attend that hearing and the suit is still pending After the close of the case in the Sorab Court of which Exhibit A is the judgment, I went to thresh a portion of the crop of the Oorumundina gadde. when I and my grandson Dasi were at work there, 2nd accused Chenna came and snatched the crowbar and broom with which we were working, and then 2nd accused, Kalvira &c. began to tie up the sheaves &c. My grandson tried to obstruct them and he was thrown down and was hurt. I then went and complained to the Police. After one or two adjournments, the Amildar at Anvatti advised me not to quarrel with my brothers and I compromised that case also. Afterwards accused also rooted up and took away my 'genasu'. I did not complain about it. Some 7 or 8 days before my son's murder I learnt, that Chenna 2nd accused and Mukunda had been going to one Nigadi Fakira at Yennekoppa to practise some witchcraft. On learning this, I went to Ningappa Gowda of Yennekoppa and told them of what I had heard and asked them to remember about it. Ningappa made Nigadi Fakira to leave the village immediately. The next day Chenna (2nd accused) had gone to Yennekoppa and returning to the village, abused me vilely for having told Ningappa Gowda. Neither my son nor myself quarrelled with him for it. Jakka is a relative of 1st accused and lives with the accused Mukunda a Police Constable, an Areyer by caste, also lives in a house belonging to accused which they have given to him. Ever since these disputes began Jakka and Mukunda have been living with accused. My father had two wives, and myself and my elder brother Dodda Earanna were the children of the first wife and Sanna Eara (1st accused), Chenna (2nd accused), Kalveera, and Devi were the children of the second wife. My elder brother Dodda Eara died about four years ago. He had only daughter who was married to my son Thimma. Before the great famine my husband died and I came to live with my elder brother Dodda Eara. About a year afterwards Dodda Eara and her step brothers (1st accused, 2nd accused &c.) divided the ancestral property. My elder brother, myself and my children and his daughter lived in his share of the house, and the step brothers lived in the other portion of the house. After this division my son was married to my brother's daughter. My elder brother Dodda Eara died about 5 years ago. Before Dodda Eara's death, he desired my grandson Dasi to be adopted as his son and the 1st accused, 2nd accused, and the other brother consented to it. Dasi performed Dodda Eara's funeral rites. Afterwards 1st accused, 2nd accused objected to Dasi's adoption, and thereupon I refused to give him in adoption and said that I was content that my daughter-in-law should enherit her father's property.

Cross-examined. I don't know i accused had appealed against the sentence.

of 40 Rupees fine, and if the fine was refunded to them.

Mr. Venkata Row for the accused reserves further cross-examinaton.

Read over in Canarese and admitted correct.

22-6-1903. C. S. BALASUNDRAM IYER.

Further examined on solemn affirmation—I see the two cloths now in Court (Articles 1 & 12). They are like each other. I think they belong to Chenna (2nd accused).

Read over in Canarese and admitted correct.

22-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Gangavva 2nd witness for prosecution.

Age—35.
Race—Gongadikar Vakkaligar.
Religion—Hindu.
Father's name—Dodda Eara.
Resident of—Hire Chowti.
Occupation—Cultivation.

Solemnly affirmed

The deceased Thimma was my husband. The 1st and 2nd accused are the step brothers of my father. The 3rd accused Adavi is the son-in-law of the 1st accused. My husband's mother Earakka was my father's younger sister. My husband died on a Saturday 18 days ago. On that Saturday morning while it was still dusky my husband went towards his field driving a manure cart. I don't know whose cart joined his after leaving my house. Then some time after, I can't say how long after. I saw that the manure carts of other people came back, but my husband's did not come back. I went to answer calls of nature, and there I heard a person calling out, "ಅಯ್ಯಯ್ಯೋ ನನ್ನ ಹೊಡಿಯುತ್ತಾರೆ ಸಾಯುತ್ತೇನೆ." and the voice seemed like that of my husband. I went home and feeling alarmed, told my sons that our cart had not come and that it seemed as if my husband had cried out, and told them to go with me to look for the cart. I did not meet my mother-in-law then, and did not tell her anything. Then my sons Hanumontha, Dasi and myself went towards our field near Desayi Waddu. Near Gongappa's mata we met accused's empty manure cart being driven home by Adavi and Chenna (3rd and 2nd accused). We went on and near the "Chick Chowti Hakkalu nali", we saw Sanna Eara (1st accused) running towards home from the direction of the Desayi Waddu. We did not talk with him and went forward. There near, the Desayi Waddu in the cart track there was the corpse of my husband. There were bloody wounds on the head and the arm was also broken. There were blood stains on the ground all about. I began to weep and several persons collected there. My mother-in-law also came there. Our house and accused's house are portions of the same house. I do not talk with the accused. There has been dispute between us about the lands and the house. My mother-in-law knows the detail of the dispute, but I do not know very well. The house I live in belonged to my father, and I have inherited his share of the lands and house. The dispute between us is because I did not give up my father's lands and house to accused. This quarrel has been going on for the past three years. The three accused live in the same house. Jakka lives in the hind Portion of accused's house, and accused have given Mukunda a house to live in. Since the quarrels began my husband was not in the habit of talking to accused. The Police came to our

village on Saturday and afterwards corpse was sent to Sorab. It was intended to adopt one of my sons Dasi to my father, but as afterwards accused objected to it, the adoption was not carried out and I remained content to be the heir of my father.

Cross-examination—Reserved.

Read over in Kanarese and admitted correct.

23rd June 03. C. S. BALASUNDARAM IYER.

Deposition of Dasi 3rd witness for prosecution.

Age—Looks about 16 or 17.
Race—Gongadikar Vakkaligar.
Religion—Hindu.
Father's name—Thimmanna.
Resident of—Hirechowti.
Occupation—Cultivation.

Solemnly affirmed.

My father was killed on a Saturday about 18 days ago. That morning while it was dusk my father roused me and my elder brother and asked as to take meals and go to the field to spread manure. He then yoked the manure cart and drove away. We sat for meals and my mother went out to answer calls of nature. She returned and said that that some disturbance was taking place in the direction of the field, and that the cart had not returned though it was late and asked as to go to the field soon. My brother Hanumantha and I and our mother went towards the Chick Chowti Gowdera gadde. Near the Agase Bagalu, Heggade Thimmanna told me who was in advance of my companions that an Eadiger boy Basaya had told him that my father and others were quarrelling. We went on in alarm. Near Gongappa's Matta we met accused's empty manure cart being driven towards home by Chenna (2nd accused) and Adavi (3rd accused). Further on we saw Sanna Eara (1st accused) came running from the direction of Dasaya Waddu towards home. We met him near Hakkalahally. About 100 or 150 yards (distance pointed out by witness) further or near the Dasaya Waddu we found my father lying dead. He had wounds on his head &c. andwas covered with blood. He was dead. On the bund of the Desayi Waddu and bellow it and also where the corpse was there were marks of blood. For the past 3 years there has been dispute between accused and our family and we don't talk to each other. Previous to that we and the accused were on good terms. My meternal grand father's lands are now in our enjoyment. We and accused were livig in two portions of the same house which had diffrent doors. The dispute between us and accused related to the lands. They reaped the crops on lands which we had sown. My grand mother had complained about it, but I don't know how it ended.

Finding my father dead we began to weep and afterwards I went and informed the Chikka Chowti Potel. He came and a number of people came up. A report was sent to the Anvatti Station. The Daffedar came the same day in the afternoon and after drawing up a Mahazir, the corpse was sent to Sorab.

Cross-examination—Reserved.

Read over in Canarese and admitted correct.

23-6-1903 BALASUNDRAM IYER.

Further-examined:—On solemn affirmation. My father had no other enemies.

Read over in Canarese and admitted correct.

23-6-03. C. S BALASUNDRAM IYER.

Deposition of Hole Basya 4th witness for prosecution.

Age—Looks about 15 or 16.
Race—Eadigar.
Religion—Hindu.
Father's name—Holeyanna.
Resident of—Chowti.
Occupation—Dependent on his father, who sells toddy.

Solemnly affirmed.

My father lives in Udri, but myself, my uncle and my sister live in Chowti attending to cultivation. I know Doddamane Thimma who died on a Saturday now three Saturdays ago. He died from beating. Sanna Eara (1st accused) Chenna (2nd accused) and Adavi (3rd accused) beat him to death. I had gone driving a manure cart near the Chowdi mara, near the Desaya Waddu the three accused now in Court were pursuing and beating Thimmanna who was running about. They were beating him with a club and an axe (ಕೊಡ್ಲಿ). There was one club in Sanna Eara's hand. There was an axe in Chenna's hand. I did not notice what Adavi was armed with. I saw them from a distance equal to that of the road from this room. (About 30 yards.) Sanna Eara beat Thimma with the club and the latter fell down crying ಅಯ್ಯಯ್ಯೋ ನನ್ನ. Then Sanna Eara turned towards me and came near saying, "ಇಲ್ಲಿಯಾಕೆ ಬಕಡಿಹೂಡಕೊಂಡು ಬಂದಿ ನಿಂನಹೆಂಡತಿ ಈಡಿಗಂನ ಹಾಡ" and came towards me with the club lifted in his hand, my bulls got frightend and turned across and the cart was overturned. Leaving the cart and bulls as they were I ran away towards my house.

On my way, in the Hakkalu near the village gate, I met Waddar Thimma. He asked me why I ran and I told him that Sanna Eara, Chenna and Adavi were fighting with Thimma, that Sanna Eara abused me, and that my cart was overturned and that I was therefore running home. I then ran home and told my mava Rangayya about the fight and that the cart was overturned. Then my mava sent my uncle Goni to go and set right the cart and take the manure to the field. Goni and I went and righted the cart and went to my field. The corpse was lying there and there was no one else there. On our way back from the field we found a number of people collected there. I came home and that evening learning that the Police had written down my name, my mava asked me to go and stay at Udri for a couple of days. I went to Udri the same day. The next Monday my mava came there said that the Police wanted me, and brought me back to Chowti on Tuesday. I told the Police Inspector and the Subedar all that I have said above. I did not observe carefully what kind of club it was that Sanna Eara carried in his hand when he came near me. He came to within 3 yards of me, when I saw the accused and deceased fighting, accused's manure cart standing in their field near where the fight took place. Thimma's cart was not there. To the accused's cart that was in the field, a buffalo (ಕೋಣ) and a black bull were yoked when I saw accused and deceased fighting there were no other people present there.

Cross-examination.—Reserved.

Read over in Kanarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Ranga 5th witness for prosecution.

Age—Looks about 30.
Race—Edigar.
Religion—Hindu.
Father's Name—Govinda.
Resident of—Chowti.
Occupation—Cultivation.

Solemnly affirmed.

Holebasya (4th P.W.) is my elder sister's son. I knew Doddamane Thimma of our village who was beaten to death. He died on a Saturday about 18 days ago. That day I was ill and was at home and Holebasya (4th P.W.) had gone in the dawn while it was still dusky with a manure cart. While I was still abed Holebasya came back home running. I asked him why he had come and he said that the cart had capsized. He said that Sanna Eara (1st accused), Chenna (2nd accused) and Adavi (3rd accused) were beating Thimma, that Sanna Eara came towards the cart abusing him (Holebasya) and and that the bulls shied and over turned the cart. As I was unable to get up I asked him to call his uncle Goni. I told Goni and Holebasya to go and set right the cart and take the manure to the field. They went and returned some two Thasus afterwards and by that time the news of Thimma's death had spread in the village. In the afternoon people in the village talked that the Police had noted down the name of Holebasya, The boy had also lost his appetite. Fearing that the Police might catch hold of him, I sent him to Udri where his party were. He went away the same day. The Gowda told me that I must fetch the boy and I went to Udri on Monday and brought him to Chowti on Tuesday. The Subedar and the Police were in the village and I took the boy to them. Myself, and Holebasya's father &c. are all undivided. Holebasya's father keeps the toddy shop at Udri and so lives there. We have 20 Rupees Khate lands at Chowti and we cultivate it.

Cross-examination —Reserved.

Read over in canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Heggadera Thimma 6th witness for prosecution.

Age—about 35.
Race—Waddar.
Religion—Hindu.
Father's Name—Durganna.
Resident of—Chowti
Occupation—Cultivation.

Solemnly affirmed.

I know Doddamane Thimma of our village and also accused. He is said to have been beaten to death on a Saturday about 18 days ago. That day in the morning shortly after sunrise, I had gone to my Hakkalu to answre calls of nature. Edgiar Holebasya came there from the direction of the wet fields running towards his house. I asked him where he had gone and he said he had gone to the field. He said that Sanna Eera, Chenna, Adavi were fighting with Thimma and that Sanna Eara abused him (Holebasya) and asked him to turn back the cart, that the cart fell and that he was there running home. Saying this he ran away home. A short time afterwards I saw Dasi the son of Thimma running from the direction of his house towards the wet fields. I told him that the Edigar boy

Holebasya had said that his (Dasi's) father and Sanna Eara &c. were fighting. He ran on and I went home. I did not see his mother and his elder brother. In the afternoon I had gone to the spot where the corpse was, but its face was covered. The next Friday the Amildar sent for me and asked me and I told him of what Holebasya had told me.

Cross-examination:— Reserved.

Read over in Canarese and admitted correct.

23-6-03 C. S. BALASUNDRAM IYER.

Deposition of Gonya 7th witness for prosecution.

Age—Looks about 45.
Race—Waddar.
Religion – Hindu.
Father's Name—Durga.
Resident of—Chowti.
Occupation—Cultivation.

Solemnly affirmed.

I know the accused and also Doddamane Thimma. The latter is dead now. He died on a Saturday about 18 days ago. That day at about sunrise myself and my younger brother Basya were going with a cart to Hurli jungle to fetch thorns. When we were going in Mull Sabi's hakkalu I heard a noise of "ಅಯ್ಯಯ್ಯೋ." I left the cart with my brother there, and went to ease myself and afterwards went to Desayi Waddu to wash myself When I started to go to the tank I again heard the cry of "ಅಯ್ಯೋ ಅಯ್ಯೋ". After washing myself, I got up the bund of Desayi Waddu. Below the bund the three accused were standing. They bent down and rose up. When I got up the bank they saw me. I asked who it was. They ran away without giving me any reply. I got down the bund and went and saw that Thimma was lying dead. His head was wounded and I was alarmed and hastened away to my cart. To go to Hurali jungle I would have had to pass by the corpse and so I turned away from that path and went to Huligadde jungle. I returned to the village about 2 Thasus afterwards and by that time people had gathered near the corpse. When I saw the accused, Sanna Eera (1st accused) had an axe in his hand, and Chenna (2nd accused) had a kind of club in his hand. Adavi had nothing in his hand. For the past year and a half the accused and Earakka mother of deceased had been quarrelling about some fields. On Sunday the Subedar and Jamadar questioned me about the matter and I told them. I had told my brother Basya about what I had seen and after I went home I told my aged father about it and he asked me to keep quiet. When they saw me the accused ran away towards the fields under the Desayi Waddu. As there was sufficient light then, I knew the persons whom I saw, to be the accused. None of the accused gave me any reply to my question as to who it was.

Cross-examination:—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Depostion of Mallari 8th witness for prosecution.

Age—About 28.
Race— Areyar.
Religion—Hindu.
Father's name—Mallappa.
Resident of—Chowti.
Occupation—Cultivation.

Solemnly affirmed.

I know the three accused and also Doddamane Thimma. Thimma died on a Saturday and two or three Saturdays I can't say exactly, have passed since he died. That day at dawn while it was still dusky, the deceased Thimma drove his manure cart past my house calling out to urge his buffaloes to go faster. The noise aroused me and I yoked my cart and also went on. Thimma's cart was some 8 or 10 Maroos in advance of mine. Near Singanna's house a private path from accused's backyard joins the general path and there Adavi (3rd accused) drove his cart and joined the general path between my cart and Thimma's cart. Our three carts went on in that order as far as Ganappana Mata and there I turned into a path leading to my field, and Adavi's cart and Thimma's cart went along the path to Anvatti in which lies Desaya Waddu. The 1st and 2nd accused did not accompany Adavi's cart After going to my field and attending to other business I returned home at about noon. Then there was news in the village of Thimma's death. It may be about 2, 3 or 4 furlongs from the Desaya Waddu to the place where I turned aside from the path to Anvatti to go to my field. For the past two or 3 years the deceased and the accused had been disputing about fields. They used to frequent Courts filing complaints against one another. So far as I know only the accused were the enemies of the deceased.

Cross-examination:—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Thimma 9th witness for prosecution.

Age—Looks about 20.
Race—Gangadikar Vakkaligar.
Religion—Hindu.
Father's name—Dasanna.
Resident of—Heri Chowti.
Occupation—Cultivation.

Solemnly affirmed.

I know the three accused and the deceased Thimma all residents of my village. Thimma died on a Saturday 15 days prior to last Saturday. On Saturday morning at dawn while it was still dusk I carted manure to my field once and returned home and again went with manure to the field. While I was returning home the second time the sun was just half risen. Then I saw Sanna Eara 1st accused near the kodi of our village Dodda Kere, coming fast from the direction of Mulla Sab's Hakkalu, and went towards his house. The path from Desayi Waddu also leads by Mulla Sab's Hakkalu. Sanna Eara was dressed in a panche round his waist and had an upper half of which was spread about his shoulders and half rolled up under his left

arm-pit. I asked him, "ಯಾಕೆ ಗಾಬ್ರಿ ಇಂದಬಂದೀಸ ಅಣ್ಣಾ ಈರೆ," and he said "ಲೆಸಮಿದೆ ಹೊಗಬೇಕ್ಕೆ ನೆ." From the place where I met him to the Dasayi Waddu the distance may be half a mile. When I went to the village I met Earakka mother of deceased, going towards Dasayi Waddu crying. Earakka told me that some one had beaten her son to death.

Cross-examination—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER

Deposition of Vidvathsiromani Pillay 11th witness for prosecution.

Age—38.
Race—Pillay.
Religion—Hindu.
Father's name—Ponnusami Pillay.
Resident of—Sorab.
Occupation—Hospital Assistant.

Solemnly affirmed.

On 7-6-03, I made a Post mortem examination of the corpse of a man called Thimma. The corpse was brought to me by Constable Sheik Ahamed. The paper now shown to me is the Post mortem report (Exhibt B.). I have noted in it the several marks of injury found on the corpse. The death was due to compression of the brain and rupture of the spleen. The compression of brain was due to effusion of blood on brain surface due to blows on the head. The rupture of the spleen was due to blows on the front and back of the abdomen over the region of the spleen with a blunt weapon. The Ecchymosis on the back and other parts of the body were due to blows with a club. The muscles from 7th to 2 inches below 12th left ribs were highly congested. The congestion of the internal organs of the thorax and abdomen was also due to blows. Both bones of the right forearm were also fractured. The spleen was ruptured. The death could not have been suicidal. There were 8 wounds on the head which must have been caused by a sharp edged instrument. Besides these injuries there were bruises on the left side of the back in 6 places, and linear abrasions on the right and left side of the back. These were due to the man having been dragged along. The deceased was otherwise a well nourished subject.

I see the club article 3 now shown to me. It would have sufficed to cause the injuries above stated. I see the stains that appear on the two middle joints of it. They look like blood stains but I am not positive. I see the cloth now shown to me (article No. 1). Some of the stains on it appear to be blood stains. I see the cloth (article No. 4) shown to me. Some of the stains on it also look like blood stains. I see the cloth article No 5. I can't say positively if the stain on it is a blood stain. I see the cloth now shown to me article No. 6. Some of the stains look suspicious and one of them appears to be a blood stain. I see the cloth shown to me article No. 7. Some stains on it appear to be blood stains. I see the cloth (article No. 8) shown to me. It appears to contain blood stains.

Cross-examinaion:— Reserved.

Read over in Canarase and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Baramayya, 12th witness for prosecution.

Age—78.
Race—Musikina Malavar Sivachar.
Religion Hindu.
Father's Name—Basappa Gowda.
Resident of—Chick Chowti.
Occupation—Potel and Cultivation.

Solemnly affirmed.

I know the accused and also Doddamane Thimma. They were all residents of Hire Chowti which is about a mile from Chick Chowti. Doddamane Thimma died on Saturday the 6th June. At about 2 hours after sunrise, Thimma's son Dasa came to my house and said that somebody had beaten his father to death. I went with him to where the corpse was. It was in the cart track below the Desayi Waddu. The mother of the deceased, Earakka was there. She said that at the instigation of Mukunda and Jakka the three accused had beaten her son to death. I wrote two reports and sent one to the Chowti Station which I gave to Mukunda who came there and sent one to the Jamadar at Anvatti. At about noon or 1 P.M. Duffedar Sinappa came to the spot, saw the corpse and drew up a Mahazar. The corpse was then sent to Sorab. The place where the corpse was, was in the limits of Chick Chowti village. For the past three years there have been disputes and zid between accused and the deceased. The father of the 1st and 2nd accused had two wives, and Dodda Eara and Earakka (1 P.W.) were the children of the first wife, and the 1st, and 2nd accused and one Kalvira were the sons of the second wife. Formerly they were all living jointly. About 10 or 15 years ago Dodda Eara and his step brothers divided the property. Dodda Eara taking a fourth share and the step brothers (1st accused, 2nd accused and Kalvira) taking 3 shares. The lands were all divided and the house was also similarly divided. The house was partitioned by a wall and tatties and a separate doorway opened. The brothers continued to live in those portions. Dodda Eara had no sons and had only one daughter who was married to his sister's son *viz* the deceased. The daughter and her husband and their parents continued to live in Dodda Eara's house. Dodda Eara died about four or five years ago. His son-in-law *i.e.* the deceased continued to enjoy the lands that had fallen to Dodda Eara's share. The 1st and 2nd accused said that the lands of Dodda Eara belonged to them as he left no male heirs, and threshed and removed the paddy crop on two lands in Hire Chowti which deceased had cultivated and the crop of which the deceased had reaped and stacked. This was the crop of the year before last *i. e.* the crop of the year Plava. Complaints were made to the Cutchery and I have heard that accused were fined in that connection. Even now a suit is pending in the Munsiff's Court about it and the 13th instant had been fixed for the hearing. The parties had similarly divided a land in Chick Chowti which belongs to the Nadig of Anvatti and cultivated by accused and deceased; and the accused tried to take away the crop on the portion cultivated by the deceased. This was about a month after the dispute about the Hire Chowti lands. One night news came that the two parties were fighting. I went there. The 2nd and 3rd accused and others had come there. The deceased and his sons were also in the Kana. I advised the accused not to create such disturbances but to get their land with the help of the Sircar. I left the Talvar and others there that night to see that no disturbance took place. The next day Thimma (deceased) took his crop home. On that occasion accused's people had come with clubs &c., and on being asked said that they had brought them to guard their stacks. I see the reports now shown and read over to me. They are those that I sent to the Chowti and Anvatti Stations. Where the corpse lay there was blood on the ground. Also on the bund of the Desayi Waddu and near

about the ground was bloody in places. Except the ruts of the cart track the places near where the corpse was, were grassy. When the Mahazar was drawn up all these were observed and noted down in it. Mukunda is a Police Constable attached to the Police Station at Hire Chowti. 2nd accused Chenna was in the Police one or two years ago. I don't know if he resigned or was dismissed. Mukunda lives in a house belonging to accused which accused have given to him to live in. In villages no house rent is charged. I was present when Sanna Eara's house was searched in the presence of the Jamadar and Daffedar. It was perhaps on Tuesday, but I don't remember exactly. Some cloths with blood stains and a club now in Court were found. Sanna Eara was present then.

Cross-examination - Reserved.

Read over in Canarese and admitted correct.

23-6.1903. C. S. BALASUNDRAM IYER.

Deposition of Sivappa 13th Witness for prosecution.

Age – 48.
Race – Malogowda Sivachar.
Religion – Hindu.
Father's Name—Puttappa Gowda.
Resident of—Hirechowti.
Occupation—Poteli and cultivation.

Solemnly affirmed.

I know the accused, and also Doddamane Thimma, all residents of my village. Thimma is dead. On the morning of Saturday the 6th instance at about a *thasu* or a *thasu* and a half, I was going along towards our village peta, Earakka's daughter Kotri was running along towards Earakka's house from the direction of the peta. I asked one Annappa why she was running along and he said that she was going in alarm serching after her mother. I wanted to see what was the matter and followed her. On going some distance I heard the sounds of boys weeping. I called for the Talavar, but learnt that he had gone in advance. I then went to near accused's house and learnt that Thimma was lying dead below the Desayi Waddu. I went there and found the deceased's wife, son, mother and others and the Chickchowti Potel and many other persons. The Chickchowti Potel said he had sent a report and I waited there for some time till the Duffedar came at noon or 1 P. M. The Duffedar asked me to see that the persons accused of the crime should not run away and I sent for the three accused and Jakka and saw that they did not run away. The Daffedar drew up a Mahazar. There were marks of blood near the corpse and also on the bund of the Waddu and nearabouts. Afterwards the corpse was sent to Sorab. Earakka complained against the accused and two others at the time of the Mahazar. I have known the families of the accused and deceased for the past 20 or 30 years. Dodda Eara, and Earakka (1st P. W.) were the children of one wife, and Sanna Eara (1st accused), Chenna (2nd accused), Kalvira, and Devakka were the children of another wife of one father, 3rd accused Adavi is the son-in-law of 1st accused and lives with him. Dodda Eara and his step brothers effected a partition some 18 years ago and continued to live in portions of a house partitioned off by a mud and tatty wall. Dodda Eara had only a daughter who is the wife of the deceased. The deceased lived in Dodda Eara's house. Dodda Eara died 3 or 4 years ago. After his death his son-in-law Thimma continued to enjoy Dodda Eara's share of the

lands. In the year Plava the crops on Dodda Eara's share of Oorumundina gadde and Kaddayada gadde had been reaped and stacked by Thimma (deceased). The accused threshed and took away the crop without the consent of Thimma. There was a complaint about it in the Taluk Amldar's Court The accused in taht case were fined 40 Rs. Subsequently there was another complaint against Chenna relating to the straw of that land. The Amildar advised the parties to settle the matter amicably and I spoke to them and compromised the case. Earakka had filed a suit in the Munsiff's Court against the accused for the recovery of the crop they had removed and it had been posted to the 13th instant for hearing Similarly there have been several other mutual complaints between the parties, relating to "genasu", the crop of a Chickchowti land, and about some cowdung. Besides there used to be minor disputes between the parties every now and then. Mukunda lives in a separate house belonging to accused and Jakka lives with the accused. Mukunda is a Police Constable. Chenna (2nd accused) was in the Police, but he was dismissed some 4 or 6 months ago. Jakka is said to be related to accused but I don't know the relationship. He has no lands in our village. I was present when Sanna Eara's house was serched on Sunday or Monday by the Jamadar and Daffedar. Then the club now in Court and some clothes were found in the house and some clothes were also found on the persons of the accused. They were seized as they appeared to bear blood stains. Besides the accused, the deceased Thimma had no enemies either in one village or in the neighbouring villages.

Cross-examination—Reserved.

Read over in Canarese and admitted correct.

23-6-03. C. S. BALASUNDRAM IYER.

Deposition of Lingappa Gowda 14th witness for prosecution.

Age—34 or 35.
Race—Sivachar Malo Gowda.
Religion—Hindu.
Father's name—Mallikarjunappa.
Resident of—Yennekoppa.
Occupation—Poteli and cultivation.

Solemnly affirmod.

I know Nigadi Fakira who came to our village from Udri and stayed for 10 or 15 days. He used to eat in somebody's house or other and used to go about saying that he would write Yantra chits &c. Some 20 or 25 days ago Earakka came and told me that Jakka, Chenna &c., were going to Fakira intending to practice some sorcery upon her. I comforted her and told that I would do the needful bandobast. I sent for Fakira and told him that he should not live in our village and he said he would go away, and he went away to Teverkoppa. I did not question him regarding that Earakka told me. Accused come to our village as they have money dealings with me. I don't know if they used to go to Fakira. It may be a mile or a mile and a half from Chowti to our village. Sanna Eara owes me 200 Rs. on a document and also interest. The deceased Thimma had no money dealings with me.

Cross-examination.—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Sheikh Ahmed 15th witness for prosecution.

Age—35.
Race—Sheikh.
Religion—Musulman.
Father's name—Rahimansab.
Resident of—Chowti.
Occupation—Police Constable No. 68.

Solemnly affirmed.

I know Doddamane Thimma of Chowti. On Friday I had gone on beat to Anvatti. On Saturday the 6th June information was received at Anvatti of Thimma's death and I came to Chowti with Daffedar Seenappa. The Daffedar drew up a Mahazar and the corpse was given in my charge to be taken to Sorab. I brought the corpse in a cart and brought it to Sorab Hospital on Sunday. The Hospital Assistant examined it the same day and I was present during examination.

Cross-examination.—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. **C. S. BALASUNDRAM IYER.**

Deposition of Seenappa 16th witness for prosecution.

Age—54.
Race—Vishnava Brahmin.
Religion—Hindu.
Father's name—Thimmannachar.
Resident of—Anvatti.
Occupation—Police Daffedar No 403.

Solemnly affirmed

On the 6th June at 11 A. M. I got the Chick Chowti Potel's report about the murder of Thimma and also in Chowti Station Constable's report. I reached Chowti at noon. The body was lying in the cart track below the Dasaya Waddu. In the presence of Panchayatdar's, Potel and relatives of the deceased, I drew up an inquest report. There were wounds on the left side of the head, on the cheek, on the chin, &c. which have all been noted in the Mahazar. Near the head of the corpse the ground was wet with blood. About a yard from the head of the corpse there was blood mark on the ground. The Mahazar contains a description of where the (witness refers to inquest report) blood marks were. In the dust near the corpse there were foot prints. Near the head of the corpse the ground was wet with blood. The deceased's loin cloth was lying near the head, blood stained. There was a bloody cloth on the corpse. About a yard from the corpse, on the bund in the direction in which the corpse lay, also in the cart track at a distance of 6 yards from the body, there was blood on the grass and on the ground. The bund is overgrown with grass and no traces of the body being dragged were found. After the Mahazar was drawn up I sent the body to Sorab in charge of Constable No. 68. The Jamadar came up the next morning. That day he searched the house of the accused. Among the cloths in the house some bore blood stains and they were taken possession of. A bamboo club also blood stained was found behind the door. That was also taken possession of. Among the cloths worn by the accused there were blood stains and such cloths were

taken possession of. Blood stains were found on a Dhotra and a turban worn by 1st accused and they were taken possession of. The cloths 6 and 7 are those found on 1st accused. No. 8 was Adavi's turban and it bore blood stains. Cloths No. 1, 4 and 5 were found in accused's house. The club No. 3 is the one that was found in accused's house. On Saturday the accused were watched and on Sunday they were arrested. Jakka was also arrested in addition to the three accused.

Cross-examination.—Reserved.

Read over in Canarese and admitted correct.

23-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Gonya 17th witness for prosecution.

Age—Looks 30 or 32.
Race—Edigar.
Religion—Hindu.
Father's Name—Sidda.
Resident of—Hire Chowti.
Occupation—Cultivation.

Solemnly affirmed.

Hole Basya (4 P. W.) is my elder brother's son. He lives in Edigar Ranga's house and I live in a different house. I know the accused persons. I know also Doddamane Thimma. He died on a Saturday, which was 15 days before last Saturday. On that Saturday morning at about a thasu after sunrise, I was at home, Hole Basya called me saying that his mava (Runga) called me. I went there. Ranga told me that Hole Basya said that the cart had fallen down and asked me to set it aright and send the manure to the field. Myself and Hole Basya went there. The cart was overturned in Kalakka's field near the chowdi tree near Desayi Waddu. We set right the cart and drove it to the field. In the cart track near Desayi Waddu Doddamane Thimma's corpse was lying. There was no one else there. Therefore we drove the cart to our field by another path. The face of the corpse was all bloody. I saw it from a distance. While returning from the field a number of people had collected near the corpse. We did not stop there but went home. Hole Basya did not tell me why his cart was overturned nor did I ask him. The same afternoon Hole Basya went away to Udri to his parents, I don't know why. On Tuesday he came back, when the Subedar &c. were in the village.

Cross-examination—Reserved.

Read over in Canarese and admitted correct.

24-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Basya 18th witness for prosecution.

Age—Looks about 25.
Race—Waddar.
Religion—Hindu.
Father's Name—Durga.
Resident of—Hire Chowti.
Occupation—Cultivation.

Solemnly affirmed.

I know the three accused persons and also Doddamane Thimma. He

died on a Saturday, three Saturdays ago, including the Saturday on which he died. My elder brother Gonya (7 P. W.) and myself were driving a cart to fetch thorns from the Hurli jungle. On the way I heard a cry of "ಅಯ್ಯೋ ಅಯ್ಯೋ". Again a little later the same cry was heard again. My brother asked me to stop the cart there and went forward. I stopped the cart in Mulla Sab's hakkalu and stayed there. My brother went as far as the Desayi Waddu tank and came back a little later and said that Thimma's corpse was lying on the cart track and said that we need not go along that way and proposed that we should go to Huli gadde jungle. We went to Huli gadde jungle and returned with thorns. Durga did not tell me anything about the accused. I did not question my brother further about the corpse. Durga did not tell me about having seen the accused there. Between the deceased and the accused there have been quarrels for the past one year or so.

Cross-examination.—Reserved.

Read over in Canarese and admitted correct.

24-6-1903. C. S. BALASUNDRAM IYER.

Deposition of Hutcha Row 19th witness for prosecution.

Age—38.
Race—Vaishnava Brahmin.
Religion—Hindu.
Father's Name—Ganesa Row.
Resident of—Anvatti.
Occupation—Police Jamadar.

Solemnly affirmed.

On the 6th June, near Kupgadde I got the information as to the death of Thimma. On the 7th morning I went to Hire Chowti. I searched the house of the accused and took possession of a club and blood stained cloths found there. I also took possession of some cloths found on the persons of the accused which bore blood stains. The same evening I arrested the three accused and another Jakkappa. Mukunda was arrested on the 12th under the orders of the Amildar. As there was not sufficient evidence against Mukunda and Jakka they were released on their personal recognizances. The Amildar examined the witnesses in the case. The plan now produced (marked Exhibit E) was drawn by the Work Inspector. I was present with him when the various measurements were made. The spots marked on it were pointed out by the several witnesses. The measurements &c., were made on the 11th instant. The plan is correct.

Cross-examination.—Reserved.

Read over in Canarese and admitted correct.

24-6-1903. C. S. BALASUNDRAM IYER.

IN THE CHIEF COURT OF MYSORE.

Criminal appeal No. 149 of 1903-1904.

Appellant.		Respondents.
Government of Mysore. (Complainant.)	Vs.	1. Sanna Eara. 2. Chenna. 3. Adavi. (Accused.)

Under Section 417 of the Code of Criminal Procedure.

Under the instructions of Government, the undersigned begs to appeal to this Honorable Court against the order of acquittal passed by the Sessions

Judge of Shimoga, in Shimoga Sessions case No. 8 of 03-04, on the following grounds:—

1. The Sessions Judge has erred in acquitting the accused persons even though he admits that the case against them is not devoid of foundation and that, in his own individual opinion, some or all of them caused the deceased Thimma's death.

2. The reasons given by the Judge for thus acquitting the accused are unsatisfactory and inadequate.

3. The Sessions Judge has not given due weight to the facts which he himself has found to be true; namely (among others), that the accused persons had very strong motives for getting rid of the deceased Thimma before the date of the Civil Suit which had been posted in the Munsiff's Court for hearing on the Saturday next before the date of murder; that all of them were at the scene of occurrence about the time of the murder, while no others are shown to have been so present and likely to have committed the crime; that Thimma cried out for help at the time.

4. The Sessions Judge has erred in setting aside the very important evidence of the 6th prosecution witness Hole Basya, corroborated as it is by the evidence of the 7th, 8th and 9th witnesses and by the significant fact (not apparently noticed by the Judge) that the names of the 6th and 7th witnesses were mentioned in the inquest proceedings which were drawn up very shortly after the murder as the persons who knew about the occurrence.

5. The Sessions Judge has also erred in discrediting without sufficient cause the evidence of the 11th, 12th and 13th prosecution witnesses.

6. There is no evidence whatever on behalf of the accused persons to rebut the evidence adduced by the prosecution.

7. The circumstances and the probabalities of the case point strongly to the accused persons as the real murderers.

20th January 1904.
Bangaloro.

S. RAMASWAMI IYER.
Government Advocate.

IN THE CHIEF COURT OF MYSORE
AT BANGALORE.
Criminal Appeal No. 149 of 1903-04.

Shimoga Sessions Case No. 8 of 1903-04.

The Government of Mysore.
Appellant — (Complainant)

(By Mr. S. Ramaswamy Iyer
Government Advocate.)

Versus.

1. Sanna Kara
2. Chenna
3. Adavi

} Respondents.
(Accused)

Instituted :— 22-1-1904.

To be heard on :— 18/7/04

Decided :—